

CHARTER

Title

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[HISTORY: Enacted as Ch. 572, Laws of 1902. Amendments noted where applicable.]

TITLE I
Boundaries and Wards

§ 1. Boundaries.

All that territory comprising the City of Middletown, in the County of Orange, and State of New York, included within the following boundaries, namely:

- A. **[Amended by L. 1906, Ch. 170]** Beginning at an iron rail in the rear of Gardner's barn near the corner of Woodlawn Avenue and East Main Street, and runs thence:
- (1) North 10° 28' west 74.5 chains to an iron rail monument in the ground on the farm of C. Emmet Crawford passing through stone monument on Gardner, Wickham and Wisner Avenues: all courses taken from a true north:
 - (2) North 74° west 80.351 chains to an iron rail monument on the lands of Edward A. Brown formerly belonging to David R. Miller, passing through stone monument on Cottage and North Streets:
 - (3) South 61° west 81.215 chains to an iron monument on the lands of John McBride, passing through an iron monument at the Erie tracks and a stone monument on Monhagen Avenue:
 - (4) South 16° 34' west 46.073 chains to a stone monument on the asylum property, passing through an iron rail monument on the asylum back road:
 - (5) South 28° 26' east 94.182 chains to a stone monument between Wawayanda Avenue and South Street, said line passing through stone monument at West Main Street and California Avenue and an iron rail monument on the lands of Booth and in line with Mountain Avenue extended:
 - (6) South 74° east 62.388 chains to an iron pipe near the Erie Railroad, said line passing through stone monument on South Street and Dolsontown road:
 - (7) North 50° 54' east 57.906 chains to an iron rail on the lands of Houston, said line passing through a stone monument on Genung Street and crossing a cattle pass under the Ontario and Western Railroad:
 - (8) North 18° 44' east 62.388 chains to the place of beginning, said line passing through a stone monument on East Main Street, containing 2320 acres, more or less.
- B. **[Added by L. 1931, Ch. 574]** Also, beginning in the southerly boundary of the City of Middletown, said point being:
- (1) North 74° west 1091.74 feet from a monument near the Erie Railroad, said monument being southerly corner of the boundary of the City of Middletown; all courses taken from true north:

- (2) South 5° west 611.05 feet to a point on said course being the center line of a 15 foot strip of land through the lands of Elroy Giveans, thence further along the center line of said 15 foot strip of land:
- (3) South 37° 51' 20" west 438.25 feet to a point in the northerly line of the tract of land known as the sewage disposal plot:
- (4) North 84° 28' 20" east 247.29 feet along the line of land of Elroy Giveans to a stone monument:
- (5) North 86° 52' 10" east 965.87 feet along the line of land of Elroy Giveans to a stone monument in the line of lands of the Rockland Light and Power Company:
- (6) South 22° 59' 10" west 863.90 feet partly along the line of lands of Rockland Light & Power Company to a point:
- (7) Thence along the line of lands of Fred Woodley on the following courses: south 65° 35' 50" west 601.43 feet to a point:
- (8) South 48° 05' 30" west 420.56 feet to a point:
- (9) South 27° 37' 50" west 309.13 feet to a stone monument in the line of lands of Emil Raasch:
- (10) South 86° 19' 40" west 283.80 feet along the line of lands of Emil Raasch to a point:
- (11) South 3° 40' 20" east 49.50 feet alone said Raasch to a point:
- (12) South 85° 27' west 1221.80 feet further along said Raasch and Burr Fuller to a monument on the easterly side of the Middletown-Goshen highway, said monument being distant 30 feet easterly from the center of the concrete pavement, thence northeasterly along the easterly side of said highway and 30 feet distant from the center line of the concrete pavement to the line of lands of Elroy Giveans:
- (13) North 84° 28' 20" east 878.21 feet to the above last mentioned course of the 15 foot strip of land intersecting the northerly line of the sewage disposal plot.

The area of the above sewage disposal plot which includes Wilson Field and excluding the 15 foot of land being 71.3 acres, more or less.

- C. **[Added by L. 1949, Ch. 857]** Also beginning at a point in the northeasterly boundary line of the City of Middletown, said point being in rear of lots facing on southeasterly side of Highland Avenue extension and about 102 feet southeasterly from said street and runs along the rear line of the above mentioned lots in a northeasterly direction a distance of about 535 feet to a point, thence along the N.Y. O. & W. Railway property line on the following courses:

- (1) Southeasterly 80 feet to an iron pipe:
 - (2) Northeasterly 211.4 feet to a monument:
 - (3) Northeasterly 203.5 feet to a monument:
 - (4) Northeasterly 378.65 feet to a monument:
 - (5) Southeasterly 141.5 feet to a monument:
 - (6) Northeasterly 307.6 feet to a monument:
 - (7) Southeasterly 80 feet to a monument:
 - (8) Northeasterly about 470 feet to the southeasterly corner of the lands of now and formerly W. F. & A. O. Gerow:
 - (9) Thence along said Gerow's lands in the northwesterly direction 523.7 feet to the southeasterly line of Highland Avenue extension above mentioned:
 - (10) Thence along said southeasterly line of Highland Avenue in a northeasterly direction, a distance of about 1710 feet to the southwesterly line of a 50 foot right-of-way.
 - (11) Thence along said right-of-way in a southeasterly direction a distance about 495 feet to a point; said point being 49 1/2 feet northwesterly from the original centerline of the N.Y. O. & W. Railway:
 - (12) Thence in a southwesterly direction on a curve to the right, parallel to and 49 1/2 feet northwesterly from original center line, a distance of about 1315 feet to a monument:
 - (13) Thence in a southwesterly direction parallel to and about 22 feet northwesterly from the northwest rail of the outside switch, a distance of about 2370 feet to the city boundary line above mentioned:
 - (14) Thence along same in a northwesterly direction, a distance of about 710 feet to the point and place of beginning, containing about 48 1/2 acres of land, more or less.
- D. **[Added by L. 1954, Ch. 713]** Also, all that certain lot, piece or parcel of land known as a portion of the Beakes farm, lying northwest of Watts Park and adjacent to the City of Middletown within the Town of Wallkill, County of Orange, State of New York and more accurately bounded and described as follows:
- Beginning at a point in the northwest boundary of Watts Park owned by the City of Middletown at the point where the city line intersect said Watts Park boundary; thence
- (1) Along the present city line North 74° 00' west 1270.53 feet to a point in the southwesterly line of Beakes farm opposite to Clemson Airport:

- (2) Thence along a stone wall north $49^{\circ} 20' 20''$ west 644.55 feet to the end of said wall:
- (3) Thence along a wire fence north $48^{\circ} 52' 50''$ west 148.47 feet to the most westerly corner of the Beakes farm which is also the most westerly corner of the herein described parcel:
- (4) Thence along a stone wall and fence marking the line of lands of the Shawangunk Fish and Game property on the next three courses: North $30^{\circ} 40' 40''$ east 1903.16 feet to a stone wall corner:
- (5) Thence south $47^{\circ} 04' 20''$ east 97.98 feet to a stone wall corner:
- (6) Thence north $32^{\circ} 38' 30''$ east 539.34 feet to a point in the stone wall, said point being 200.73 feet as measured along the stone wall from the southwest line of Beakes Avenue:
- (7) Thence running along the rear of several pieces of property fronting on Beakes Avenue on the next several courses: south $49^{\circ} 51'$ east 95.00 feet:
- (8) Thence south $36^{\circ} 26' 30''$ east 222.74 feet to a rail monument on the most westerly corner of lands of Harold W. and Eleanor Norman:
- (9) Thence along south $49^{\circ} 49' 50''$ east 286.00 feet to a rail monument at the most southerly corner of George Loker's lot:
- (10) Thence south $41^{\circ} 00' 10''$ west 38.16 feet to a point in the northwesterly line of a proposed street:
- (11) Thence south $45^{\circ} 31' 50''$ east 393.73 feet to the most westerly corner of lands of H. M. Bedford:
- (12) Thence south $57^{\circ} 39' 50''$ east 200.00 feet to a rail monument in the southeasterly side of a proposed street:
- (13) Thence south $51^{\circ} 55'$ east 270.22 feet to the most westerly corner of lot #78 shown upon a map entitled "Weller and Halstead":
- (14) Thence south $14^{\circ} 23' 30''$ east 270.42 feet along the easterly line of a proposed street, which street fronts lots 83 to 78 inclusive as shown upon the "Weller and Halstead" map heretofore mentioned, at an angle in said proposed street:
- (15) Thence south $37^{\circ} 42' 40''$ west 320.01 feet further along the southeasterly side of the proposed street to a rail monument being the most westerly corner of the lot of Ralph Meyer:
- (16) Thence south $52^{\circ} 17' 20''$ east 380.75 feet along the rear of the Meyer lot and along the rear line of the Walter Westgate lot and crossing over a monument located at the most southerly corner of the Westgate lot and continuing thence across a proposed

street to a point at the most westerly corner of lot #43 on the "Weller and Halstead" map above mentioned:

- (17) Thence on a line 110 feet northwesterly of, and parallel to the northwesterly line of Beakes Street being the rear line of a tier lots facing Beakes Street south $37^{\circ} 49' 10''$ west 873.31 feet:
 - (18) Thence south $50^{\circ} 31' 30''$ east 110.05 feet to the most northerly corner of Watts Park:
 - (19) Thence along the northwest line of Watts Park south $37^{\circ} 42' 10''$ west 368.71 feet to an angle point of the fence marking said lines:
 - (20) Thence still along the northwest line of Watts Park south $37^{\circ} 44'$ west 113.05 feet to the point and place of beginning, containing 97.73 acres of land, more or less.
- E. **[Added by L. 1956, Ch. 324]** Beginning at a point in city boundary line, said point being South $16^{\circ} 34$ minutes west 304.86 feet from the McBride Farm monument as shown upon a map entitled "Survey City Boundaries," City of Middletown, Department of Public Works and filed in the City Hall, Middletown, N.Y. and runs thence along the existing city boundary south $16^{\circ} 34$ minutes 00 seconds west 747.30 feet to the lands of the New York State Homeopathic Hospital; thence along said hospital lands and the lands of George Ogden north $50^{\circ} 25$ minutes 20 seconds west 1878.94 feet to a point in the southeasterly line of the town road leading from Pilgrims Corners to the State Hospital grounds; thence along the southeasterly line of said town road on the following four (4) courses:
- (1) North $39^{\circ} 18$ minutes 10 seconds east 238.22 feet; thence
 - (2) North $33^{\circ} 44$ minutes 00 seconds east 248.81 feet; thence
 - (3) North $16^{\circ} 43$ minutes 30 seconds east 115.22 feet; thence
 - (4) North $1^{\circ} 41$ minutes 20 seconds east 314.99 feet to the center of a stone pier; thence south $79^{\circ} 34$ minutes 30 seconds east 58.80 feet to the center of a stone pier; thence north $64^{\circ} 05$ minutes 40 seconds east 81.20 feet to an iron pipe; thence north $29^{\circ} 11$ minutes 30 seconds east 160.10 feet to an iron pipe; thence south $48^{\circ} 44$ minutes 30 seconds east 203.13 feet to an iron pipe; thence along the rear lot line of properties fronting on Reservoir Road north $30^{\circ} 17$ minutes 00 seconds east 396.55 feet; thence along the rear of lots fronting on Monhagen Avenue (Route #211) south $49^{\circ} 54$ minutes 00 seconds east 488.34 feet to the center of 48 inch Oak tree; thence south $39^{\circ} 36$ minutes west 68.40 feet; thence south $49^{\circ} 48$ minutes 50 seconds east 400.0 to a stake; thence north $41^{\circ} 00$ minutes 00 seconds east 169.00 feet to a stake in the southwesterly line of Monhagen Avenue (Route #211); thence along the southwesterly line of Monhagen Avenue (Route #211) south $49^{\circ} 00$ minutes 00 seconds east 50.0 feet to a stake; thence south $41^{\circ} 00$ minutes 00 seconds west 168.29 feet to a stake; thence south $49^{\circ} 48$ minutes 50 seconds east 319.37 feet to the center line of Monhagen Brook; thence along the center line of Monhagen Brook south $50^{\circ} 44$ minutes 40 seconds west 317.92 feet; thence south $49^{\circ} 44$ minutes 40 seconds east 301.12 feet to the most northerly corner of the lands of the Community Broadcasting

Company south 40° 15 minutes 20 seconds west 400.0 feet; thence south 49° 44 minutes 40 seconds east 163.76 feet to the place of beginning, containing 52.587 acres of land.

F. **[Added by L. 1956, Ch. 325]** Beginning at an iron pipe in the northwesterly line of Dolson Avenue said pipe being the southerly boundary line of the City of Middletown and runs thence along the northwesterly line of Dolson Avenue extension known as Route 17-M on the following courses:

- (1) S. 35° 36' W. 224.57 ft.
- (2) S. 39° 26' W. 168.63 ft.
- (3) S. 41° 13' W. 188.08 ft, to an intersection of wire fences
- (4) S. 41° 23' W. 110.00 ft. along the fence to an iron pipe, thence N. 74° 00' W. 691.77 ft. along the lands of the granter (Beatrice Giveans Walklet) to an iron pipe in a fence line, thence N. 40° 25' E. 358.83 ft. along the fence and partly along a stone wall to a point, thence further along a stone wall N. 41° 29' E. 342.48 ft. to an iron pipe, thence S. 74° 00' E. 665.80 ft. along the boundary line between the City of Middletown and the Town of Wallkill to the point and place of beginning, containing 10.06 acres of land.

G. **[Added by L.L. No. 1-1968¹]** The City of Middletown shall contain, on and after the effective date of this local law, in addition to the territory theretofore contained within its boundaries, the following described territory now within the Town of Wallkill, to wit:

Beginning at a point in the southerly boundary line of the City of Middletown, said point being in the westerly line of Dolson Avenue, said point also being the northeast corner of the former Playtog annexation parcel and runs thence from the point and place of beginning along the City Boundary Line South 74° 00' East 1,501.89 feet to a former monument, thence further along the City Line North 59° 54' East about 80 feet to a point, thence southwesterly about 657 feet along lands formerly of Silas Hulse, to a City monument, thence South 86° 52' West 965.87 feet along lands annexed for the sewage treatment plant site, to a monument, thence further along these lands South 84° 36' West 1160.10 feet to a point in the center of Dolson Avenue Extension, thence along the center of the highway in a northeasterly direction a distance of 739.32' feet to a point, thence North 48° 29' West 23.43 feet to a point in the westerly line of Dolson Avenue Extension, said point being the southeast corner of the above mentioned Playtog annexation, thence along the City Boundary Line and the west line of the highway on the following courses and distances (1) North 41° 23' East 110.00 feet (2) North 41° 13' East 188.08 feet (3) North 39° 26' East 168.63 feet and (4) North 35° 36' East 224.57 feet to the point and place of beginning, containing 37.1 acres of land more or less.

Excepting so much of the foregoing premises as lies within the bounds of Dolson Avenue Extension, also known as Route 17M.²

¹Editor's Note: This local law was adopted pursuant to § 714 of the General Municipal Law.

²Editor's Note: Territory described shall be included in the First Election District of the Fourth Ward.

- H. **[Added by L.L. No. 2-1968³]** The City of Middletown shall contain, on and after the effective date of this local law, in addition to the territory theretofore contained within its boundaries, the following described territory known as the Village of Amchir and lying partly in the Town of Wallkill and partly in the Town of Wawayanda, Orange County, New York, to wit:

Parcel 1. Beginning at a point in the Town Boundary line between the Towns of Wawayanda and Wallkill, said point also being in the division line between lands of the Missionary Society of Mt. Carmel and J. B. Amchir (northeasterly line of Chestnut Hill Development) and runs thence from the place of beginning North 89 degrees 30 minutes West 2474.7 feet along said Town line as described in a deed conveyed from Distelburger & Silderman to Amchir, thence North 51 degrees 00 minutes East 1336.5 feet as described in said deed to the westerly corner of the lands conveyed from Sterling to Amchir, thence North 50 degrees 00 minutes East 1069.2 feet along the Sterling tract on the course outlined in that deed to a point, thence North 67 degrees 45 minutes West 930.6 feet along the southerly line of a second tract conveyed from Sterling to Amchir on the course outlined in that deed to a point in the southeasterly line of the High Barney Road, thence across the Road on the last mentioned course about 40 feet to a point, thence North 68 degrees 30 minutes West 2008.3 feet along the southerly line of the first parcel conveyed from Barman to Amchir in 1957, to the lands conveyed to Sterling Construction Co, thence along same North 21 degrees 05 minutes East 1017.6 feet to a point; thence along the course described in the above mentioned Barman tract (1) South 59 degrees 30 minutes East 1406.4 feet (2) South 60 degrees 30 minutes East 139.3 feet and (3) South 50 degrees 30 minutes East 96.4 feet to a point, thence along courses described in parcel #3 from Barman to Amchir (1957) on the following courses (1) North 22 degrees 00 minutes East 172.9 feet (2) North 0 degrees 00 minutes 171.6 feet (3) North 19 degrees 00 minutes East 241.6 feet and (4) South 47 degrees 00 minutes East 498.3 feet to a point, thence along courses described in the first and second parcels from Barman to Amchir on the following courses (1) North 47 Degrees 00 minutes East 1089.0 feet (2) South 46 degrees 00 minutes East 1809.70 feet along lands of Missionary Society of Mt. Carmel, thence (3) South 46 degrees 00 minutes West 330.00 feet; thence (4) North 46 degrees 00 minutes West 232.28 feet, thence further along same (5) South 48 degrees 30 minutes West 732.15 feet to a point, thence along the lands of Mt. Carmel on the courses described in the deeds from Sterling to Amchir (1) South 59 degrees 00 minutes East 345.2 feet (2) South 40 degrees 45 minutes West 425.0 feet (3) South 53 degrees 21 minutes West 205.76 feet and (4) South 36 degrees 44 minutes East 889.07 feet to a point in the center of Wawayanda Avenue Extension, thence along same on the courses described in the Sterling deed South 50 degrees 17 minutes West 460.90 feet to a point, thence further along the center of the Road South 47 degrees 45 minutes West 216.7 feet to the northerly line of the Chestnut Hill Development thence along same South 40 degrees 15 minutes East 199.7 feet to the point and place of beginning, containing 166 acres of land more or less.

³Editor's Note: This local law was adopted pursuant to § 714 of the General Municipal Law. Local Law No. 5-1968 provided that § 3 of L.L. No. 2-1968 be amended as follows: "There is hereby created in the Fourth Ward of the City of Middletown an election district known as the 'Fifth' Election District, and the territory described in Section 1 of Local Law No. 2, 1968 shall constitute the Fifth Election District of the Fourth Ward of the City of Middletown."

All of the foregoing premises lie within the Town of Wallkill.

Parcel 2. Beginning at a point in the westerly line of the Middletown-Goshen State Highway said point being in the division line between lands recently conveyed from Cohen to Amchir and those of Leroy Giveans farm and runs thence from the point of beginning along the westerly line of the Highway in a southerly direction a distance of 1452 feet more or less to the northerly line of Meola, now rented by the New York State Police, thence along the lands described in a deed from Cohen to J. B. Amchir (1960) on the following courses described in the deed or contract (1) South 80 degrees 46 minutes 30 seconds West 283.97 feet along the Meola lot (2) South 3 degrees 39 minutes West 150.0 feet along the rear of the Meola lot (3) South 5 degrees 30 minutes West 230.0 feet along the rear of the Colonial Garage property to a point and (4) North 88 degrees 00 minutes West about 2088 feet along the lands of Mrs. Uhlig to a point, thence further along Uhlig's lands and along the southeasterly line of the Chestnut Hill Development South 31 degrees 15 minutes West 716.0 feet to a corner, thence further along the Chestnut Hill Development on the course described in a deed from Distelburger & Silderman to Amchir, North 45 degrees 30 minutes West 2851.9 feet to the Town Boundary Line of Wallkill Township, thence along the Town Line South 39 degrees 30 minutes East 1750 feet to a point thence along the lands of the Mt. Carmel Missionary Society on the course outlined in the last mentioned deed to Amchir South 40 degrees 15 minutes East 1256.1 feet to a point, this course being the northeasterly line of the Chestnut Hill Development, thence along the following courses outlined in the recent deed or contract from Cohen to Amchir (1) North 32 degrees 00 minutes East 1068.6 feet to the Town Line (2) South 88 degrees 15 minutes East 654.0 feet along the Town Line (3) North 56 degrees 00 minutes East 583.4 feet (4) South 25 degrees 30 minutes East 394.0 feet along the southwesterly line of a Town Road to a point, thence (5) South 88 degrees 15 minutes East 293.0 feet along the said Town Line to a point (6) North 52 degrees 00 minutes East 165.0 feet (7) North 57 degrees 00 minutes East 401.9 feet (8) South 37 degrees 45 minutes East 201.3 feet and (9) South 87 degrees 30 minutes East 250 feet to the point and place of beginning, containing 125 1/2 acres of land more or less.

The majority of the foregoing premises lie in the Town of Wawayanda, and a small portion thereof in the Town of Wallkill.

Parcel 3. Beginning at a point in the easterly line of Webb Road, said point being a common corner of lands of grantor herein and one Tooker; thence, North 51 degrees 17 minutes East 99.97 feet to a corner, thence North 50 degrees 20 minutes East 192.76 feet to a corner, thence North 46 degrees 02 minutes East 95.21 feet to a corner, thence North 41 degrees 05 minutes East 968.34 feet to a corner, thence South 74 degrees 00 minutes East 691.77 feet to the northwesterly line of New York State Route 17M, thence along the northwesterly line of New York State Route 17M on the following four courses and distances: (1) South 41 degrees 23 minutes West 66.93 feet (2) South 38 degrees 11 minutes West 268.51 feet (3) South 39 degrees 57 minutes West 126.45 feet, (4) South 30 degrees 36 minutes West 303.76 feet to a corner, thence South 84 degrees 50 minutes West 237.56 feet to a corner, thence North 44 degrees 38 minutes West 198.00 feet to a corner, thence along lands of Amchir on the following three courses and distances: (1) South 50 degrees 27 minutes West 365.61 feet, (2) South 46 degrees 20 minutes West 198.93 feet, (3) South 85 degrees 13 minutes West 269.44 feet to a corner in the easterly line of Webb

Road aforesaid, thence along the same North 38 degrees 14 minutes West 129.80 feet to the point or place of beginning. Containing 16.18 acres of land more or less.

All of the foregoing premises lie within the Town of Wallkill.

- I. **[Added by L.L. No. 2-1972; amended by L.L. No. 3-1973]** The City of Middletown shall contain, on and after the effective date of this section, in addition to the territory theretofore contained within its boundaries, the following described territory, to wit:

All that certain lot, piece or parcel of land situate in the Town of Wallkill, County of Orange, State of New York, being more accurately bounded and described as follows:

Beginning at a point on the northerly corporation line of the City of Middletown, said point of beginning being located North 19° 55' 20" West 1,070.11 feet from the most northerly corner of lands of Hubert and Harriet Bloom; thence from the above located point of beginning, along the lands of the City of Middletown, known as "Fancher-Davidge Park," North 19° 55' 20" West 403.72 feet to a rail monument; thence continuing along Fancher-Davidge Park, North 49° 24' 40" West 815.10 feet to a rail monument; thence along lands now or formerly of Ingrassia, North 45° 05' 40" East 551.10 feet to a rail monument; thence continuing along lands of Ingrassia, North 58° 20' 40" East 457.38 feet to a rail monument; thence along lands now or formerly of Travers, North 45° 07' East 920.29 feet to a rail monument; thence along lands of the Shawangunk Fish and Game Association on the following two (2) courses and distances; (1) South 49° 31' 50" East 559.46 feet to a rail monument; (2) North 48° 47' East 82.05 feet to a rail monument; thence continuing partly along the lands of the Shawangunk Fish and Game Association and along lands known as "Presidential Heights," South 49° 30' 20" East 1,183.63 feet to a point on the present corporation line of the City of Middletown; thence along said present corporation line, North 74° 00" West 173.67 feet more or less to an angle in said line; thence continuing along the present corporation line, South 61° 00' West 2,238.03 feet to the point and place of beginning.

Containing 62.478+ acres of land more or less.

The territory described above is hereby annexed to the City of Middletown pursuant to the provisions of § 714 of the General Municipal Law.

The territory described above and annexed to the City of Middletown by this law shall be included in the Second Ward and Third Election District therein.

- J. **[Added by L.L. No. 1-1975]** The City of Middletown shall contain, on and after the effective date of this local law, in addition to the territory heretofore contained within its boundaries, the following described territory:

Parcel No. 1. Beginning at a point of the southerly right-of-way of Orange County Road 78, which point of beginning is located South 88° 51' 20" West a distance of 125 feet from the northeast corner of premises conveyed to grantor by deed hereafter recited at the intersection of the westerly right-of-way of Orange County Route 78; thence (1) South 22° 43' 00" West a distance of 153.65 feet along the line of other lands conveyed to August F.

Wiegand by deed dated August 2, 1967 to a point; thence (2) South 87° 00' 30" West a distance of 134.61 feet to a point; thence (3) North 12° 54' 10" East a distance of 94.01 feet to a point; thence (4) North 13° 39' 10" East a distance of 37.32 feet to a point; thence (5) North 10° 42' 50" East a distance of 18.67 feet to a point in the southerly right-of-way line of Orange County Route 78; thence (6) along the southerly right-of-way line of Orange County Route 78 North 88° 51' 20" East a distance of 158.97 feet to the point and place of beginning.

Parcel No. 2. Beginning at the Northeast corner of the premises conveyed to Grantor by deed hereafter recited at the intersection of westerly right-of-way line of Orange County Route 78; thence along the westerly right-of-way line of New York State Route 17M (1) South 22° 43' 0" West a distance of 150.00 feet to a point; thence (2) South 87° 0' 30" West a distance of 125.00 feet to a point; thence (3) North 22° 43' 0" East a distance of 153.65 feet to a point in the southerly right-of-way line of Orange County Route 78; thence (4) along the southerly right-of-way line of Orange County Route 78 North 88° 51' 20" East a distance of 125.00 feet to the point and place of beginning.

The territory described above is hereby annexed to the City of Middletown, pursuant to the General Municipal Law of the State of New York.

- K. **[Added by L.L. No. 6-1983⁴]** The City of Middletown, N.Y. shall contain, on and after the effective date of this section, in addition to the territory theretofore contained within its boundaries, the following described territory to wit:

All that portion of lands of the Town of Wallkill described in a deed recorded liber 2062, Pg. 502 in the County of Orange, N.Y. being more accurately bounded and described as follows: Beginning in the southeasterly line of Sproat Street at an iron pipe set at the most westerly corner of lands now or formerly of Clemmer; and runs thence from the above located point of beginning along the line of lands conveyed by Shear to Clemmer and Tripp. South 55° 26' East 200 feet to a pipe; thence along the line of lands conveyed to Tripp by Shear in a northeasterly direction North 24° 09' 40" East, 50.85 feet to a point; thence along the line of lands now or formerly of Kosuga and others, South 55° 26' East 139.11 feet to a point on a stone wall thence along the stone wall and lands now or formerly of Edmund Lloyd, South 29° 59' West 50.16 feet to a stone wall corner thence further along the line of lands now or formerly of Edmund Lloyd, South 33° 01' West 86.67 feet to a point; thence North 68° 51' West 315.49 feet to a point on the southeasterly line of Sproat Street; thence along the southeasterly line of Sproat Street, North 24° 09' East 162.51 feet to the point and place of beginning. Containing 35,630 square feet more or less.

- L. **[Added by L.L. No. 2-1990⁵]** The City of Middletown, New York, shall contain, on and after the effective date of this section, in addition to the territory theretofore contained within its boundaries, the following described territory to wit:

⁴Editor's Note: This local law also provided that the property described therein shall be included in the First Ward, District No. 5 therein.

⁵Editor's Note: Section II of this local law provided that the property described therein shall be included in the Fourth Ward, District No. 5.

ALL that portion of lands of the Town of Wawayanda, County of Orange, New York, being more accurately bound and described as follows: Beginning at a point in the westerly line of New York State Route 17M, said point being the northeasterly corner of lands now or formerly Stillman Realty Corp., said point also being a southeasterly corner of lands herein described; thence running along the northerly line of lands now or formerly Stillman Realty Corp. the following two (2) courses and distances: (1) South 84 -35'-45" West a distance of 150.15 feet to a point being the northwesterly corner of said lands; and (2) South 08 -41'-50" West a distance of 13.64 feet to a granite monument found in the northerly line of lands now or formerly County of Orange; thence running along the lands now or formerly County of Orange the following three (3) courses and distances: (3) North 72 -38'-00" West a distance of 54.70 feet to a point being the northwesterly corner of said lands; (4) South 04 -30'-00" West a distance of 111.94 feet to a point; and (5) South 09 -15'-30" West a distance of 100.76 feet to a point being the most easterly corner of lands now or formerly Zappavigna; thence running along the northerly and westerly lines of lands now or former Zappavigna the following two (2) courses and distances: (6) North 73 -02'-20" West a distance of 322.23 feet to a point being the northwesterly corner of said lands; and (7) South 29 -54' -04" West a distance of 219.03 feet to point being the most westerly corner of said lands; thence running along the northeasterly lines of lands now or formerly Taylor, and now or former Thomasos the following six (6) courses and distances: (8) North 54 -37'-34" West a distance of 121.62 feet to a point; (9) North 54 -38'-34" West a distance of 533.87 feet to a point; (10) North 60 -51'-54" West a distance of 88.30 feet to a point; (11) North 66 -10'-04" West a distance of 112.75 feet to a point; (12) North 68 -09'-14" West a distance of 394.69 feet to a point; and (13) South 37 -10' -06" West a distance of 741.95 feet to a point being the northwesterly corner of lands now or formerly Thomasos; thence running along the northerly lines of lands now or formerly Paglia, now or former Bub, nor or formerly Kmiec, now or formerly Salvati, now or formerly Dassori, now or formerly Titsworth, now or formerly Hortsch, nor or formerly Stewart, now or formerly Bader, and now or formerly Hunter, the following five (5) courses and distances: (14) North 50 -58'-14" West a distance of 26.88 feet to a point; (15) South 58 -33'-31" West a distance of 587.94 feet to a point; (16) South 59 -04'-32" West a distance of 529.00 feet to a point; (17) South 60 -34'-37" West a distance of 251.61 feet to a point; and (18) South 57 -54'-47" West a distance of 578.69 feet to a point in the easterly line of Uhlig Road; thence running along said easterly line the following four (4) courses and distances: (19) North 29 -54'-50" West a distance of 83.15 feet to a point; (20) North 27 -50'-59" West a distance of 105.85 feet to point; (21) North 27 -26'-40" West a distance of 152.45 feet to point; and (22) North 29 -29' -40" West a distance of 82.76 feet to a point in the southerly line of lands now or formerly Thomas; thence running along the southerly, southeasterly, and northeasterly lines of said lands the following three (3) courses and distances: (23) North 59 -41'-24" East a distance of 143.17 feet to a point being the southeasterly corner of said lands; (24) North 05 -32'-36" West a distance of 553.70 feet to a point being the most easterly corner of said lands; and (25) South 78 -47'-24" West a distance of 221.00 feet to a point being the most northerly corner of said lands, said point also being the most easterly corner of lands now or formerly White; thence running along the easterly and northerly line of said lands the following two (2) courses and distances: (26) North 52 -37'-36" West a distance of 254.80 feet to a point being the northeasterly corner of said lands; and (27) South 49 -26'-24" West a distance of 191.40 feet to a point in the easterly line of Uhlig Road; thence running along said easterly line the following five (5) courses and distances: (28) North 28 -07'-20" West a distance of 92.98 feet to a point; (29) North 29 -29' -40" West a distance of 79.04 feet to a

point; (30) North 31 -11'-10" West a distance of 103.86 feet to a point; (31) North 34 -01'-30" West a distance of 86.09 feet to a point; and (32) North 36 -17'-20" West a distance of 172.38 feet to a point in the southerly line of the Middletown and New Jersey Railroad Company; thence running along the southerly line of said railroad company (33) North 47 -13'-45" East a distance of 1328.14 feet to a point being the most northerly corner of lands herein described, said point also being the northwesterly corner of the Chestnut Hill Subdivision (Map No. 3163); thence running along the westerly line of said subdivision, said line also being the division line between the City of Middletown on the northeast and the Town of Wawayanda on the southwest (34) South 51 -55'-40" East a distance of 1337.55 feet to a point being the most southerly corner of said subdivision; thence running along the southeasterly line of said subdivision, and continuing along the division line between the City of Middletown and the Town of Wawayanda, the following two (2) courses and distances: (35) North 25 -07'-21" East a distance of 396.28 feet to a point; and (36) North 26 -37'-05" East a distance of 320.55 feet to a point, said point being the southeasterly corner of lands now or formerly Swan Village Estates, Inc.; thence running along the southerly lines of lands now or formerly Swan Village Estates, Inc., now or formerly Hallahan, now or formerly Kosuga, now or formerly Hallahan, now or formerly Glass, now or formerly Patten, and now or formerly Ganow, Nancy et al, and CIA Inc. Real Estate Dept., said lines being a continuation of said division line between the City of Middletown and the Town of Wawayanda, the following three (3) courses and distances: (37) North 85 -56'-44" East a distance of 798.17 feet to a point; (38) North 84 -57'-18" East a distance of 346.99 feet to a point; and (39) North 85 -56'-13" East a distance of 627.07 feet to a point being the northwesterly corner of lands now or formerly Meola, Fitzgerald and Mills; thence running along the westerly lines of lands now or formerly Meola, Fitzgerald and Mills, and the westerly and southwesterly lines of lands now or formerly Wiederspiel the following five (5) courses and distances: (40) South 11 -13'-10" West a distance of 46.19 feet to a point; (41) South 15 -07'-20" West a distance of 45.50 feet to a rebar found; (42) South 16 -55'-30" West a distance of 55.32 feet to a rebar found; (43) South 62 -16'-50" East a distance of 374.27 feet to a fence point found; and (44) South 79 -50'-40" East a distance of 322.48 feet to a granite monument found in the westerly line of New York State Route 17M, said monument being the northeasterly corner of lands herein described; thence running along the westerly line of NYS Route 17M the following three (3) courses and distances: (45) South 11 -39'-02" East a distance of 107.00 feet to a point; (46) South 09 -53'-00" East a distance of 118.32 feet to a point; and (47) South 10 -53'-50" East a distance of 410.03 feet to the point or place of beginning; all as shown on a map entitled, "Survey Prepared for Vincent Kosuga and Pauline Kosuga, Town of Wawayanda, Orange County, New York, Sheet No. 1 of 2 and Sheet No. 2 of 2", prepared by Lanc & Tally, P.C. on September 9, 1988, and last revised on January 15, 1990.

Containing 119.594+ acres.

Premises herein described being Tax Map Lot No. 51 in Block 1, Section 4, as shown on the Tax Maps of the Town of Wawayanda, Orange County, New York, dated 1987.

Premises herein described being and intended to be the same premises as described in Liber 1833 of Deeds, at page 311.

Subject to any Rights-of-Way, Easements, Covenants, or Restrictions of Record.

shall continue to be a city known as the city of Middletown; and the citizens of this state and the inhabitants within the said boundaries, shall be a corporation by the name of the "city of Middletown." Said corporation may take, purchase, hold, sell and convey real and personal property. It may take by gift, grant, bequest and devise, and hold real and personal estate in trust for any purpose of education, art, health, charity or amusement, for parks, gardens, the burial of the dead, the erection of statues, monuments, public buildings, or other public use, upon such terms as may be prescribed by the grantor or donor and accepted by said corporation, and may provide for the proper execution of said trust; and may have, use and from time to time alter, a common seal; may sue and defend in all courts. **[Amended by L. 1906, Ch. 170]**

§ 2. Wards.

The said city shall be divided into four wards, described as follows, namely:

First ward. All that part of the same lying in the angle made by a line from the center of Franklin square, through the center of North street and the north plank road, to the northerly bound of the said city and a line drawn from the center of Franklin square through the center of Main street and the road to Mechanicstown, to the easterly bounds of said city.

Second ward. All that part of said city lying in the angle made by the first mentioned line, and a line drawn from said starting point through the center of West Main Street to Highland Avenue, thence northeasterly along the center of Highland Avenue to Wickham Avenue, thence westerly along the center of Wickham Avenue to Lake Avenue, thence along the center of Lake Avenue to the northwest line of the city.

Third ward. All that part of said city lying in the angle made by the last mentioned line and a line drawn from the center of Franklin square through the center line of South street and the road leading past the house of E. Smith Webb, to the southerly line of the city.

Fourth ward. All that part of said city lying in the angle made by the last mentioned line, and a line drawn from the center of Franklin square through the center of Main street and the road to Mechanicstown to the easterly line of said city.

[§ 2 amended by L. 1922, Ch. 613; L.L. No. 1-1971]

TITLE II

Election and Appointment of Officers

§ 3.⁶ The officers of said city shall consist of one Mayor and one Alderman-at-Large, both of whom shall be elected by the city at large; two Aldermen to be elected in each ward; one Corporation Counsel, one Assistant Corporation Counsel, one Commissioner of Public Works, three Deputy Commissioners of Public Works, one Commissioner of Assessment and Taxation, one City Clerk, Registrar and Clerk of the Common Council, one Treasurer; police officers such as may be appointed and such other officers as are hereinafter or otherwise duly authorized who shall be appointed as hereinafter or otherwise duly provided; also one Chief of the Fire Department, and three assistant chiefs, one secretary and one treasurer of the Fire Department, who shall be elected as hereinafter provided. All appointments by the mayor shall be subject to confirmation by the Common Council. It shall be the duty of the mayor, within thirty days after the first of January of each year hereafter, to appoint successors to all appointive officers who are by law required to be then appointed by him. If an appointment made by the mayor shall not be confirmed by the council, another name shall be submitted by the mayor at the next regular meeting of the council thereafter, and this course shall be taken until an appointment shall have been made and confirmed. All the officers of the City of Middletown now in office, elective or appointive, shall continue to remain in office, and discharge the duties thereof, until their successors are elected or appointed in the manner provided by this act. **[Amended by L. 1907, Ch. 653; L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 3-1928; L.L. No. 1-1939; L.L. No. 1-1942; L.L. No. 2-1952; L. 1953, Ch. 878, § 180; L.L. No. 2-1991; L.L. No. 2-1997; L.L. No. 2-2007]**

§ 4. Public notice of all future elections under this act shall be given by the mayor and common council, herein authorized to be elected, by notice to be published at least two weeks before the time of holding such future elections or in such manner as may be provided by law.

§ 5. The said wards or such election districts therein as may be established by the common council of said city, shall constitute the election districts for all state, general and other elections to be held therein. And all elections shall be held under and subject to the general election laws of the state.

§ 6. **[Amended by L. 1911, Ch. 699; L.L. No. 2-1924; L. 1953, Ch. 878, § 181; L.L. No. 4-1997; repealed by L.L. No. 1-2009]**

§ 7. All officers so elected shall begin their terms on the first day of the year following their election and their terms shall expire on the last day of the last year of the period for which they shall have been elected. **[Amended by L.L. No. 3-1924; L.L. No. 4-1997; by L.L. No. 2-2010]**

⁶Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

§ 8. The The term of the Mayor, who shall be elected by the City voters at large, shall be four years. The term of the Alderman at Large, who shall be elected by the City voters at large, shall be four years. There shall be two Aldermen from each ward, who shall be elected by the voters of such ward, and the terms of each Alderman shall be two years.

[§ 8 added by public referendum November 1994; amended by L.L. No. 4-1997⁷; by L.L. No. 2-2010]

§ 9. [Repealed]⁸

§ 10. Every person elected to any office, before entering on the same, shall take the oath of office prescribed by the Constitution of this State, before the Mayor or other officer authorized to take affidavits to be read in courts of justice, and file the same with the City Clerk, except that the Mayor, City Judge whose oaths shall also be filed with the Clerk of Orange County, and every person so elected who shall refuse or neglect to take and file the said oath of office for ten (10) days after personal notice in writing of his election shall be deemed to have declined the office. **[Amended by L.L. No. 4-1957, § 2]**

⁷Editor's Note: Original § 8, as last amended by L. 1922, Ch. 613, was repealed by L.L. No. 4-1957.

⁸Editor's Note: No information concerning the time of repeal of this section has been provided.

§ 11. All officers elected or appointed under this Charter, except Mayor, Aldermen, City Judge, Chief of Police, Corporation Counsel, Commissioner of Public Works, City Clerk, Registrar and Clerk of the Common Council, Treasurer, Members of the Board of Health and Civil Service employees, shall hold offices for one (1) year, and until their successors shall qualify. Officers elected or appointed under this act may be removed from office as hereinafter provided. Any person otherwise qualified who is a member of a Board or a Commission at the time a vacancy occurs may be permitted to fill a vacancy provided that he shall have resigned prior to said appointment. [Amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L.L. No. 7-1939; L.L. No. 1-1951; L. 1953, Ch. 878, § 182; L.L. No. 1-1960; L.L. No. 1-1996; L.L. No. 1-2001; L.L. No. 2-2004; L.L. No. 2-2007]

§ 12. [Repealed by L. 1922, Ch. 613]

§ 13. An election shall be held every three (3) years in such manner as the Common Council shall designate, for the election of a Chief and three (3) Assistants of the Fire Department, who shall respectively hold their offices for the term of three (3) years, and until their successors are chosen and confirmed. All persons duly enrolled as members of the engine, hook and ladder and hose companies of said city, who shall not have resigned, been removed or suspended, and no others, shall be entitled to vote at such elections. The Common Council shall provide the place of holding, the manner of conducting, returning the votes cast, and confirming the officers elected at all future elections for Chief Engineer and Assistants. [Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 3-1927; L.L. No. 2-1991; L.L. No. No. 1-1993]

§ 14. All Department Heads appointed by the Mayor shall reside in Orange County and every person elected to the Office of Mayor, Alderman-at-Large and Alderman shall be a resident of the City of Middletown for at least one (1) year preceding his election and additionally, every person elected as an Alderman shall have been a resident of the Ward from which he is elected for at least one (1) year preceding his election, and if any Alderman shall no longer reside in the Ward he represents, his office will be declared vacant and if the Mayor or Alderman-at-Large no longer resides in the City of Middletown, the office will be considered vacant from the time of removal. [Amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 5-1939; L.L. No. 2-1942; L. 1953, Ch. 878, § 183; L.L. No. 1-1986]

§ 14a. Every Employee of the City of Middletown, New York shall reside without exception in the State of New York and either reside within the County of Orange or within a radius of twenty-five (25) miles from the border of the City of Middletown within the State of New York and if such employee shall remove from these required areas during his employment he shall be deemed to have resigned his position and employment with the City of Middletown from the time of such removal. [Added by L.L. No. 2-1969; amended by L.L. No. 1-1984; L.L. No. 5-1990]

§ 15.⁹ The Common Council shall fix the amount of the bond to be furnished by the Treasurer, and for said Treasurer as collector of taxes and assessments, and as collector of water rents, and the said bonds shall be furnished by some surety company to be approved by the Mayor and the premium on said bonds shall be paid from the funds in the city treasury; and in case of any breach of the conditions of said bonds, suit may be maintained thereon by the said city of Middletown. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 2-2007]**

§ 16.¹⁰ Such Treasurer and his or her sureties shall also be liable to the same proceedings, to enforce the payment of money collected by virtue of any warrant issued by the County of Orange, as are provided by law in respect to town collectors and their sureties. **[Amended by L. 1922, Ch. 613; L.L. No. 2-2007]**

§ 17. Such other officers as may be required thereto, by the Common Council, shall severally, before entering upon their offices, execute and file with the City Clerk, except the Treasurer whose bond shall be filed with the clerk of Orange County, a bond to the city of Middletown, in such sum as the Council shall direct, and with such sureties as the Mayor shall approve, conditioned that they will faithfully discharge the duties of their respective offices, and pay over all moneys received by them respectively, and furnish such additional security as the Common Council may require. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 2-2007]**

§ 18. If any officer who shall be required, by any of the provisions of this act, or by any ordinance of the common council, to execute any bond before or after entering upon the duties of his office, shall fail to execute and file the same in the manner prescribed by this act or by any such ordinance, within ten days after he shall have been duly notified to do so, the common council may declare his office vacant, and proceed to cause the same to be filled in the manner provided in this act in case of vacancy in office. **[Amended by L. 1922, Ch. 613]**

§ 19. **[Repealed by L.L. 1942, No. 7]**

§ 20.¹¹ The Mayor shall appoint the Corporation Counsel, the Assistant Corporation Counsel, one Commissioner of Public Works, three Deputy Commissioners of Public Works, one

⁹Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

¹⁰Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

¹¹Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

Commissioner of Assessment and Taxation, one City Clerk, Registrar and Clerk of the Common Council, one Treasurer, and all other officers whose appointment is not otherwise provided for. The Common Council or a majority thereof shall appoint a Clerk of the Common Council. A person otherwise qualified, who is a member of the Common Council at the time the vacancy occurs, may be appointed to fill the vacancy provided that he shall have resigned prior to said appointment. **[Amended by L. 1904, Ch. 560; L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 1-1942; L.L. No. 2-1952; L.L. No. 1-1958; L.L. No. 2-1997; L.L. No. 2-2007]**

§ 21. If a vacancy shall occur in any office of Alderman, the Mayor shall appoint with the approval of the Common Council, a resident of the City of Middletown to fill such vacancy. If the vacancy is in the office of Alderman, elected only by a Ward, the appointment shall be to a person who resides in that Ward.

The appointment shall expire at the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

It shall be the duty of the Mayor to appoint said person within thirty (30) days of the vacancy. If said appointment made by the Mayor shall not be confirmed by the Council, another name shall be submitted by the Mayor at the next regular meeting of the Council thereafter, and this course shall be taken until an appointment shall have been made and confirmed.

Any person elected at this next succeeding annual election shall fill the vacancy for any remaining term of office.

In case of a vacancy in the office of chief engineer, first assistant chief engineer, second assistant chief engineer or third assistant chief engineer of the fire department by reasons of death, resignation or otherwise, the said vacancy shall be filled by appointment by the Mayor and any person so appointed to fill a vacancy shall hold his office until the next regular election for chief engineer and assistant chief engineer.

Any vacancy occurring in any appointive office shall be filled by the body of official making the original appointment.

[§ 21 amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 3-1944; L.L. No. 1-1988; L.L. No. 2-1991]

[§ 21-A. [Added by L.L. No. 9-1942; amended by L.L. No. 2-1946; L.L. No. 2-1951; L.L. No. 5-1958; L.L. No. 1-1976; L.L. No. 3-1976; repealed by L.L. No. 1-2009]

§ 21-B. The offices of the Mayor, the City Clerk, Registrar and Clerk of the Common Council, the Treasurer, the Commissioner of Assessment and Taxation, the Corporation Counsel and the Commissioner of Public Works, shall be closed for public business on the holidays designated in the general construction law of the state of New York, and on Saturdays which are to be construed as holidays only for the purpose of paying taxes, water rents, assessments, fees,

licenses and other money due to the city of Middletown, New York, and for the purpose of filing chattel mortgages, conditional sales contract records and other papers as may be required by law, in the City Clerk's office, all of which may be performed or made on the next business day succeeding such holiday or Saturday. The department heads of any of the above offices may grant time off on the aforesaid holidays and Saturdays to any of their employees provided that in their discretion the services of such employees can be dispensed with and no expense is incurred for the employment of substitute personnel or otherwise. **[Added by L.L. No. 3-1947; amended by L.L. No. 5-1949; L.L. No. 1-1996; L.L. No. 2-2007]**

§ 21-C. [Added by L.L. No. 3-1961; repealed by L.L. No. 1-2009]

§ 21-D. [Added by L.L. No. 3-1963; repealed by L.L. No. 5-1973]

(Cont'd on page 27)

TITLE III
Common Council

§ 22. The general legislative power of the city is vested in the common council, and it shall have, in addition to the powers vested in it by the charter of said city and hereinafter conferred in this act, the management and control of the finances and all property, real and personal, belonging to said corporation, and shall have power to do all such acts and make such ordinances, rules, police regulations and bylaws, not inconsistent with the laws of the United States, as they may deem necessary to carry into effect any general power, the powers conferred upon it by this act or by any other laws of this state, and such also as they may deem necessary for the good government, order and protection of persons and property, and for the preservation of the public health, peace and prosperity of said city and its inhabitants. It shall also have all powers given to the common councils of cities generally, or cities of the third class by general legislative enactment. **[Amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613]**

§ 23. The alderman shall constitute the common council. Its members shall meet in its chambers, on the first business day of January at eight o'clock in the evening, and organize. The alderman-at-large shall be the president, and shall preside at all meetings, and discharge such other duties as may be prescribed by law or ordinance. He shall appoint all standing committees of the council.

The council shall appoint the time and place of its meetings, which shall be held regularly at least once in each month, and the mayor, president of the common council, or any three aldermen, may call special meetings, by notice in writing, served personally upon the other members of the council, or left at their usual place of abode. The council shall determine the rules of their own proceedings and be judges of the election and qualifications of their own members, and have power to compel the attendance of absent members from time to time and may punish or expel a member for disorderly conduct, or declare his seat vacated by reason of absence, provided such absence be continued for the space of three mouths. But no expulsion or vacation of the office shall take place except by concurrent vote of two-thirds of all the members elected, nor until the delinquent member shall have an opportunity, after proper notice, to be heard in his defense.

In the proceedings of the common council each member present shall have a vote, including the presiding officer.

The meetings of the Common Council shall be public in accordance with Article 7 of the Public Officers Law.

The minutes of the proceedings shall be open at all times to public inspection.

[§ 23 amended by L. 1922, Ch. 613; L.L. No. 1-2009]

§ 24. [Repealed]¹²

¹²Editor's Note: No information concerning the time of repeal of this section has been provided.

§ 25. A majority of the common council shall constitute a quorum for the transaction of any business, but a smaller number may adjourn from time to time and compel the attendance of absent members; but no tax or assessment shall be ordered, nor any appointment be made except by a concurring vote of a majority of all the aldermen elected and in office; nor, except as otherwise provided by the local finance law, shall any resolution or ordinance be adopted or be binding on said city which shall have for its object the appropriation or payment of money from the treasury of said city, or the creating of any debt or obligation, unless the same has been passed by the concurring vote of a majority of all the aldermen elected and in office; and the votes taken on the passage of any such ordinance or resolution shall in all cases be taken by ayes and noes, and entered on the minutes of the common council; and, except as otherwise provided by the local finance law, no debt or obligation shall be created against said city except by ordinance or resolution of said common council, specifying the amount and object of such expenditure. Whenever any matter or subject shall be referred to any committee of the common council which may involve the payment of money from the city treasury, or any matter or order which may involve the taxation or assessment of any citizen or citizens of said city, or the expenditure of any money on the part of such citizen or citizens, such committee shall report thereon to said common council for their action before any such expenditure, order, taxation or assessment shall be made or take effect. **[Amended by L. 1943, Ch. 710]**

§ 26. The common council shall have power to prescribe the duties of all officers and persons appointed by them, to any office or place whatever, subject to the provisions of this act; to revoke or cause to be revoked any license given under this act, and to remove all officers and persons appointed by them for any neglect of office or misconduct except as hereinafter provided, and shall designate the several standing committees to be appointed by their presiding officer. It may employ an attorney and counsel when the business of the council requires him, and to pay him a reasonable compensation. **[Amended by L. 1922, Ch. 613]**

§ 27. The chairman of any committee or special committee of the common council shall have power to administer any oath or take any affidavit in regard to any matter pending before the common council or such committee. Any person who may be required to take any oath or affirmation or to make any affidavit or statement, under oath or affirmation under or by virtue of any provisions of this act, who shall, under such oath or affirmation in any statement or affidavit, or otherwise, willfully swear falsely as to any material fact or matter, shall be guilty of perjury. **[Amended by L. 1922, Ch. 613]**

§ 28. **[Repealed by L.L. No. 1-2009]**

§ 29. All accounts and claims against the said city, and all accounts and claims for services rendered or moneys expended by any officer within said city, which would be charges and accounts against a town if they were rendered and expended by the officers thereof, shall be presented to the common council. The said council shall then hear, examine and determine the

same as a board of town auditors and for that purpose shall possess the powers and be subject to the duties of town auditors. [Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]

§ 30.

- A. No civil action shall be maintained against the city for damages or injury to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk, or public building being defective, out of repair, unsafe, dangerous or obstructive unless it appears, that written notice of the defective, dangerous, unsafe or obstructive condition of such street, highway, bridge, culvert, sidewalk, crosswalk, or public building was actually given to the Mayor or the Council, and there was a failure or neglect within a reasonable time after the giving of such notice to remedy, repair or remove the defect, danger or obstruction complained of.
- B. No civil action shall be maintained against the city for damages or injury to person or property sustained in consequence of the existence of snow, or ice upon any sidewalk, crosswalk or street, unless written notice thereof relating to the particular complaint was actually given to the Mayor or the Council, and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonable safe, within a reasonable time after the receipt of such notice.
- C. All claims against the city for damages or injury to persons or property alleged to have been caused by the misfeasance or negligence of the City, or any of its officers or employees shall be presented to the Council in writing within ninety days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where, and the circumstances under which damages or injuries were sustained, and the cause thereof. It shall also state so far as then practicable the nature and extent of the damages or injury. It shall also state the place of residence of the claimant by street and number, and if there be no street and number, it shall contain such statement as will disclose the place of residence, and all such claims shall be verified by the oath of the claimant. A copy of each such claim shall be served by mail on the Corporation Counsel. The omission to present such claim within ninety days of such alleged injuries and to commence an action thereon within one year from the time of such alleged injuries shall be a bar to any claim or action therefor against the City, but no action shall be brought upon any such claim until three months have elapsed after the presentation of the claim to the Council.
- D. The Corporation Counsel shall cause all claims for personal injuries to be thoroughly investigated and to that end the Corporation Counsel or his duly authorized representative may take proof, examine witnesses, and require the claimant, with the privilege of counsel, to appear before and be sworn by a Judge of a Court of Record, or the Mayor, or any Notary Public, and answer orally any questions relative to, or that may assist him in ascertaining the City's liability or the extent thereof. The claimant may designate another time and place for the examination if he shall be physically unable to so appear. Such examination shall be held within ninety days after the presentation of such claim, but the time therefor may be further extended by any Judge of a Court of Record, on notice to both

parties. Where such examination is required, no action shall be commenced on the claim until the examination is held.

- E. Nothing contained in this section shall be held to repeal or modify any existing requirement or statute of limitations applicable to this class of injury, but on the contrary shall be held to be an additional requirement for the right to maintain such action. Nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the City any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel.
- F. The Council shall have the power to pay, compromise or settle any such claim which may be made against the City for damages, provided such claim is presented within the time and in the manner hereinbefore prescribed and the sum or sums so expended shall be included in the amount to be raised by tax for general purposes as herein provided.

[§ 30 amended by L.L. No. 3-1952]

§ 31. [Repealed by L. 1922, Ch. 613]

§ 32. The common council shall have the power within said city to make, establish, publish and modify, amend and repeal rules, regulations and ordinances for the following purposes:

- a. To prevent the sale of intoxicating liquors, goods or merchandise, or the performance of work or labor, for hire, on Sundays; to prevent vice and immorality; to prevent and quell riots and disorderly assemblages and preserve peace and good order; to restrain and suppress disorderly and gaming houses, houses of ill-fame, houses and places where intoxicating liquors are sold to be drunk, to prohibit the sale of intoxicating liquors without

license, or contrary to law, and to prohibit all gaming and fraudulent devices within the said city.

- b. To prohibit, restrain and regulate all public, theatrical or circus performances, shows or wax figures, wild or tamed animals, mountebanks or other public exhibitions or performances for money, shows or performances by common showmen and all places of public amusement for which an entrance or other fee is charged; and to require, fix the amount of, and provide for the collection of license fees therefor; but the common council may, in its discretion, issue and grant to the proprietor of any public hall or other place of public amusement in said city, a license by the year or for such period of time as it deems proper, for such sum as to it shall seem just, which license shall cover and authorize all exhibitions and entertainments which, during said period of time, may take place in such public hall or place of public amusement without other or further license; provided, however, that said common council may at any time prohibit any exhibition or entertainment in such hall or place of public amusement which, in its judgment, shall be of an indecent character.
- c. To prevent horse racing and immoderate driving in the streets of said city; to prohibit and punish the flying of kites and every other game, practice or amusement in the public streets or elsewhere, having a tendency to frighten teams and horses, or to injure or annoy persons passing in or along the highway or streets of the city, or to endanger property; and to prevent the leaving of horses standing in the public streets of the city loose and unattended.
- d. To prohibit, regulate and determine the places of bathing in the streams and ponds within said city.
- e. To restrain and punish vagrants, mendicants, street beggars and common prostitutes.
- f. To prevent and regulate the ringing and tolling of bells, blowing of horns, or crying of goods or wares, firing of guns, powder or other explosive compounds, and the making of any improper noise, which may tend to disturb the peace of the city, or the sale and use of firecrackers, rockets, squibs or other explosive compounds.
- g. To make regulations for taxing and confining dogs, and for destroying such as may be found running at large contrary to any ordinance, and to regulate and restrain their running at large; to establish and regulate public pounds, and to appoint all necessary poundmasters, and prescribe their duties; to restrain the running at large of cattle, horses, swine, sheep, goats and fowls, and to authorize the distraining, impounding and sale of the same for the penalty incurred, and costs of keeping and proceedings.
- h. To direct the keeping and returning of accurate records of marriages and births in said city, and the keeping and returning of bills of mortality. The common council shall cause an account book to be opened and kept by the clerk of said city, wherein all the expenditures and payments made on account of said city shall be respectively entered under their proper heads.
- i. To regulate the sale of fish, meats and vegetables within said city; to regulate or prohibit the making or keeping of market for the sale of meat or fish, except at such places as the

common council shall designate, and to regulate or prohibit the erection, keeping or using of slaughterhouses within the said city.

- j. To provide for the lighting of said city and the streets thereof and the protection and safety of the public lamps.
- k. To regulate and restrain hawking and peddling on the streets.
- l. To license and regulate auctioneers, carriers, teamsters, carmen, porters, cabmen, the drivers of hackney coaches, stages or omnibuses, for the transportation of passengers, hawkers, peddlers and sweeps, within the city, and to prohibit unlicensed persons from acting in either of such capacities, to fix their rates of compensation, to require them to have licenses and to fix amounts to be paid therefor. To regulate runners, stage drivers and others in soliciting passengers and others to travel or ride in any stage, omnibus, or upon any railroad, or to go to any hotel or otherwise.
- m. To prohibit and prevent the unnecessary obstruction of streets by railway locomotives and cars; to regulate and control their running and rate of speed and the length of time they may be allowed continuously to stand or impede travel upon any street or crossing said city. To regulate and compel railway companies to provide and keep flagmen and watchmen at such points and places, and to regulate and maintain such proper lights, hoist or other gates or bars at street crossings deemed dangerous by said common council, in such manner as said common council may deem necessary for the safety and convenience of the public. To regulate and prohibit the omission of smoke or gases from any building, machine, automobile, boiler or engine whatsoever, stationary or locomotive, when the same may tend to the injury of corporate or private property or rights within the city.
- n. To prevent and regulate the setting and stringing of telegraph and telephone and electric poles and wires in said city, and to regulate and control the laying, maintenance and repair of subways, conduits, mains and pipes in and under the streets; to order and require any cables or wires to be put under the ground provided however that the owner of such cables or wires shall have the option of removing its overhead cables or wires from such streets to such other streets that may be designated by the common council as a reasonable and practicable route for overhead cables or wires.
- o. To require the owners or occupants of lots upon the streets of said city to enclose the same by suitable fences or railings, as the common council may deem necessary for the protection of the public.
- p. To regulate the burial of the dead, to protect public cemeteries and to restrict and prevent the extension of their limits, and to prevent the burial of the dead within the limits of the city, whenever the common council shall deem it necessary.
- q. To plant, direct and regulate the planting of shade and ornamental trees along the streets, sidewalks and public grounds of said city to prevent injury to and protect them and to prevent the injury and defacement of fences, posts and buildings in said city.

- r. To permit building material to be deposited on the streets in front of any lot to such an extent and for such time as they may prescribe. To regulate excavations in the public streets of the city and require reasonable fees therefor.
- s. To give names to streets and numbers to the lots and tenements, and to change the name of streets on the petition of a majority of landowners on the same.
- t. To receive in the name of the city of Middletown the title to real or personal property by gift.
- u. For the government of the police department and for regulating the powers and duties of its officers and members. To establish a police pension fund or to maintain any such fund which has been established.
- v. To designate such newspaper or newspapers printed in said city, to be known as official paper or papers in which shall be published the ordinances, rules, regulations, bylaws and official notices.
- w. To make such reasonable regulations and ordinances as to the rate of speed of cars and removal of ice and snow by street surface railroad corporations as the interest or convenience of the public may require, and to provide that any such corporation whose agents or servants shall negligently or willfully violate such an ordinance or regulation shall be liable to the city for a penalty not exceeding five hundred dollars, to be specified in such ordinance or regulation, to be recovered by said city for the use of the highway fund.
- x. To regulate and prohibit the presence in or upon any of the streets, alleys, public parks or places in the city of Middletown at night, after such hours as shall be determined and specified, of any children under such age as shall be determined and specified unaccompanied by parent, guardian or other person having legal custody or control of such children and to make it unlawful for any parent, guardian or other person having legal custody or control of any child under such determined and specified age, to permit such child to be or remain in or upon any of the streets, alleys, public parks or places in said city, after the hour at night as determined and specified when prohibited. To prescribe penalties for the violation of said ordinance, and to prescribe regulations for the police force in the city of Middletown for the enforcement of the same, and for the recorder of the recorder's court of said city of Middletown for the punishment of such persons guilty of violations of the terms of said ordinance.

[§ 32 amended by L. 1909, Ch. 389; L. 1911, Ch. 699; L. 1922, Ch. 613]

§ 33. Unsafe buildings.

1. Dangerous buildings defined. All buildings or structures whether occupied or vacant which have any or all of the following defects shall be deemed "Dangerous Buildings":

- (a) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb-line passing through the center of gravity falls outside of the middle third of its base.
 - (b) Those which, exclusive of the foundation, show twenty-five (25) per cent or more, of damage or deterioration of the supporting member or members, or fifty (50) per cent of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
 - (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 - (d) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants, neighboring property or the people of the City of Middletown.
 - (e) Those, which have become or are so dilapidated, decayed, unsafe, insanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
 - (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.
 - (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
 - (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
 - (i) Those which because of their condition are unsafe, insanitary, or dangerous to the health, morals, safety or general welfare of the people of this city.
 - (j) Those buildings existing in violation of any provision of any Ordinance or resolution of the City of Middletown or in violation of any law of the State of New York.
2. Standards for repair, vacation or demolition. The following standards shall be followed in substance by the Building Inspector and the Commissioner of Public Works in ordering repair, vacation or demolition:
- (a) If the "dangerous building" can reasonably be repaired so that it will no longer exist in violation of the terms of this title it shall be ordered repaired.
 - (b) If the "dangerous building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants it shall be ordered to be vacated.
 - (c) In any case where a "dangerous building" is 50 per cent or more damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all

cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this title it shall be demolished. In all cases where a "dangerous building" is a fire hazard existing or erected in violation of the terms of this title or any ordinance of this city or statute of the State of New York, it shall be demolished.

3. Dangerous building-nuisance. All "dangerous buildings" within the terms of Section 1 hereof are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.
4. Duties of Building Inspector. The Building Inspector shall:
 - (a) Inspect all public buildings, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or loft buildings, and may inspect all other buildings and structures, including residences, for the purpose of determining whether any conditions exist which render such places a "dangerous building" within the terms of Section 1 of this title.
 - (b) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this title.
 - (c) Inspect any building, wall or structure reported (as hereinafter provided for) by the Fire or Police Department of this City as probably existing in violation of the terms of this title.
 - (d) Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the records of the Clerk of the County of Orange, of any building found by him to be a "dangerous building" within the standards set forth in Section 1 herein, that: (1) the owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this title; (2) the occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession; (3) the mortgagee, agent or other persons having an interest in said building as shown by the records of the Clerk of the County of Orange may at his own risk repair, vacate, or demolish said building or have such work or act done. Provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
 - (e) Set forth in the notice provided for in subsection (d) hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the same to be put in such condition as to comply with the terms of this title within such length of time, not exceeding 30 days, as is reasonable.
 - (f) Report to the Commissioner of Public Works any noncompliance with the "notice" provided for in subsection (d) and (e) hereof.

- (g) Appear at all hearings conducted by the Commissioner of Public Works, and testify as to the condition of the "dangerous buildings."
 - (h) Place a notice on all "dangerous buildings" reading as follows:

"This building has been found to be a dangerous building by the Building Inspector. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, and all other persons having an interest in said building as shown by the records of the Clerk of the County of Orange. It is unlawful to remove this notice until such notice is complied with."
5. Duties of Commissioner of Public Works. The Commissioner of Public Works shall:
- (a) Upon receipt of a report of the Building Inspector as provided for in Section 4, subsection (f) hereof, give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the records of the Clerk of the County of Orange to appear before him on the date specified in the notice, such date to be not less than 10 days after service of such notice, to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in Section 4, subsection (e).
 - (b) Hold a hearing and hear such testimony as the Building Inspector, the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the records of the Clerk of the County of Orange and any other person or persons called as a witness by any of the foregoing, shall offer relative to the "dangerous building."
 - (c) Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 1, hereof.
 - (d) Issue an order based upon findings of fact made pursuant to subsection (c) commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the records of the Clerk of the County of Orange, to repair, vacate or demolish any building found to be a "dangerous building" within the terms of this title and provide that any person so notified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building"; or any person not the owner of said "dangerous building" but having an interest in said building as shown by the records of the Clerk of the County of Orange may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the city as provided in Section 6, hereof.
6. Powers of Common Council, assessment of costs. If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in Section 5, subsection (d), within 10 days, the Commissioner of Public Works shall report such fact to the Common Council in writing, and transmit to the Common Council at such time a copy of his written findings of

fact and of the order provided for in Section 5, subsections (c) and (d). The Common Council by resolution or ordinance shall authorize and direct the Commissioner of Public Works to cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided for in Section 2 of this title. The costs of such repair, vacation or demolition shall be charged against the land on which the building exists as a special assessment, which special assessment shall be levied and collected in the manner herein provided for the collection of taxes and assessments for city purposes.

7. Manner of serving notices. In all cases where notice or orders provided for herein are required to be served, such service shall be made upon the necessary persons either by registered mail directed to such persons at their last known address or by personal service of such notice or order upon such persons, and a copy of such notice or order shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing or personal service and posting shall be deemed adequate service.
8. Administrative liability. No officer, agent or employee of the City of Middletown shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this title. Any suit brought against any officer, agent or employee of the City of Middletown as a result of any act required or permitted in the discharge of his duties under this title shall be defended by the Corporation Counsel until the final determination of the proceedings therein, and any judgment against any such person shall be paid by the City of Middletown.
9. Duties of Fire Department and Police Department. All members of the Fire and Police Department shall bring to the attention of the Building Inspector any buildings or structures which are, may be or are suspected to be dangerous buildings within the terms of this title.
- 10.¹³ The proceeds of every insurance policy insuring the interest of an owner and insuring any real property within the corporate limits within the City of Middletown upon which there is erected any residential, commercial or industrial building or structure shall be subject to a lien in favor of the City of Middletown for any unpaid taxes, special ad valorem levies, special assessments and municipal charges arising by operation of law against such property in favor of the City of Middletown (including, but not limited to, the potential or actual cost of demolition of such property by the City of Middletown in the event demolition is necessary due to fire damage or other damage), which lien shall be prior to all other liens and claims, except the claim of a valid mortgage of record named in such policy. The lien of the City of Middletown against such proceeds (or any actual proceeds received by the City, if the City has received such proceeds) shall be released by the Treasurer of the City of Middletown (and, in the case of proceeds, returned to the insured) if the insured agrees with the City of Middletown, in a writing acceptable to the Corporation Counsel, that the insured shall immediately undertake any demolition of the property deemed necessary by the Commissioner of Public Works of the City of Middletown or that the

¹³Editor's Note: This subsection was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed." This subsection was subsequently amended in its entirety by L.L. No. 5-1998.

insured shall immediately restore the affected premises to the same condition that it was in prior to the incident which triggered the City's lien against such insurance proceeds. No lien shall be released or proceeds returned by the Treasurer until or unless the insured has deposited such proceeds in an escrow account under terms and conditions approved by the Corporation Counsel or obtained a performance bond (or similar bond) which has been approved by the Corporation Counsel.

Notice of any such lien against insurance proceeds and/or notice of intention to claim against insurance proceeds shall be provided by the Treasurer of the City of Middletown to the New York State Superintendent of Insurance for entry in the appropriate index maintained by the Superintendent for such purposes. The Treasurer shall provide such other notice or certificates with respect to such insurance proceeds as may otherwise be provided or required by law.

The provisions of this Section 33(10) shall not be deemed or construed to alter or impair the right of the City of Middletown to acquire or enforce any lien against the subject real property, but shall be in addition to any other power provided by law or the Charter of the City of Middletown to acquire or enforce such right.

[§ 33 added by L. L. No. 3-1957¹⁴; amended by L.L. No. 6-1978; L.L. No. 5-1998]

§ 34. No law, ordinance, bylaw or regulation shall be rescinded or repealed, unless by a two-thirds vote of all members elected to the common council. **[Amended by L. 1922, Ch. 613]**

§ 35. The Common Council shall have power to enforce observance of all provisions of this Charter through enactment of ordinances and by civil actions at law or in equity in any court of competent jurisdiction. **[Amended by L. 1922, Ch. 613; L.L. No. 1-2009]**

§ 36. **[Amended by L. 1922, Ch. 613; L.L. No. 1-1934; repealed by L.L. No. 1-2009]**

§ 37. **[Repealed by L.L. No. 1-2009]**

§ 38. **[Repealed by L.L. No. 1-2009]**

§ 39. The entries in the books of bylaws, journals and minutes of the common council, board of estimate and apportionment, and board of health or certified or sworn copies thereof, shall be presumptive evidence in all courts and places of the matters of fact therein stated, and the certificate of the clerk shall be sufficient evidence of the authenticity of such journals and minutes and books of bylaws and copies. Such certificate of the clerk to a copy shall show that he has compared such copy with the original on file or on record in his office, and that the same is a correct copy or transcript thereof or therefrom, and of the whole of such original; and every

¹⁴**Editor's Note: This section replaces a previous § 33, which was repealed by L.L. No. 3-1957.**

such ordinance, resolution or bylaw may be read in evidence in all courts and legal proceedings, from the volume of bylaws and ordinances published, or to be published, by order of the common council, without any other proof of the passage or publication thereof; but such publication shall be only presumptive evidence that the same has been duly published in the official newspapers as required by this act. **[Amended by L. 1922, Ch. 613]**

§ 40. Every law or ordinance, and every resolution of the Common Council involving the raising, payment or expenditure of money, or involving the laying out, opening, altering, widening, extending, contracting or discontinuing any street, lane or highway, or the grading, curbing, flagging, leveling or paving any street, lane, or highway or constructing or rebuilding any sewer, aqueduct or bridge, shall, before it takes effect, be presented to the Mayor, duly certified by the Clerk of the Common Council. If the Mayor approves of it, he or she shall sign it; if not, the Mayor shall return it with his or her objections and file the same with the Clerk of the Common Council within ten days after the Mayor receives it. Upon the filing of the Mayor's objections, the Common Council may, at its next regular meeting or at a special meeting which may be called not sooner than forty-eight hours after the filing of the objections with the Clerk, vote to override the objections by a two-thirds vote of the membership of the Council. If such two-thirds vote occurs, then the subject law, ordinance or resolution shall take effect. If such law, ordinance or resolution shall not be returned by the Mayor within ten days after he or she has received it, it shall take effect in like manner as if he or she had signed it. **[Amended by L.L. No. 3-1983; L.L. No. 1-2005]**

§ 41. The common council shall have the power of impeachment of the mayor by resolution, passed by the concurrent vote of three-fourths of all the members elected. The court for the trial of impeachment shall be the supreme court in and for the ninth judicial district. **[Amended by L. 1922, Ch. 613]**

§ 42. [Repealed by L.L. No. 1-2009]

§ 43. Any officer appointed or elected under this act may resign his office by giving at least one week's notice in writing of his intention so to do, to the city clerk. Any officer appointed or elected under this act, except mayor or alderman, who shall fail to discharge the duties of his office for the space of one month, shall, unless excused by the common council, be deemed to have resigned his office.

§ 44. If any person having been an officer of said city shall not, within ten days after he shall have vacated or been removed from the office, and upon notification and request by the city clerk, or within such time thereafter as the common council may allow, deliver over to his successor in office all the property, books and papers belonging to the city, or appertaining to such office, in his possession or under his control, he shall forfeit and pay to the city the sum of five hundred dollars, besides all damages caused by his neglect or refusal to deliver, to be sued for and recovered by the city, with costs.

§ 45. [Repealed by L.L. No. 1-2009]

§ 46. The council may at any time appoint a special committee of its members to inquire whether the laws and ordinances relating to any matter of any department of the city are being faithfully observed, and whether the duties of the officers and employees are being faithfully discharged, and to examine and report whether there are any unnecessary, inefficient or unfit employees or excessive salaries, wages or compensation paid, and to inquire generally in respect to any and all matters which will conduce to the orderly and economical administration of the business of the city. Such committee shall have access to the records of the city, and for the purpose of any such inquiry shall have the powers conferred upon an officer, person, board or committee by law. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 47. No bid shall be accepted from or contract awarded to any person who is in arrears to the corporation upon debt or contract, or who is a defaulter upon any obligation to the corporation.

§ 48. [Repealed by L. 1922, Ch. 613]**§ 49. [Repealed by L. 1922, Ch. 613]****§ 50. [Repealed by L.L. No. 1-2009]**

§ 51. The Common Council may prescribe by ordinance rules and regulations for the construction and maintenance of buildings and properties in accordance with the Uniform Fire and Building Code of the State of New York. The Council may enact a comprehensive plan and prescribe by ordinance the establishment of use districts and maps, and procedures for review of subdivisions, special use permits, site plans, and variances in accordance with Articles 2-A, 3 and 5-A of the General City Law. **[§ 51 formerly L. 1902, Ch. 572, §§ 51 and 52; amended by L. 1922, Ch. 613; L.L. No. 1-2009]**

§ 52. The council shall have the power by vote of two-thirds of all its members to correct any assessment claimed to be erroneous or invalid by reason of clerical error in overvaluation, upon the application of the party at interest, his agent or attorney, and to remit the tax upon the excess valuation if such tax has not been paid and if the council deems that an injustice has been done, provided that such application is accompanied by a written certificate signed and sworn to by the commissioner of assessment and taxation and stating that the valuation fixed was a clerical error and that he intended to fix a certain other valuation naming such intended valuation. The assessment as corrected by the council must not be lower than the amount named in such certificate. **[Formerly L. 1902, Ch. 572, § 52-a as added by L. 1911, Ch. 699; amended by L. 1922, Ch. 613]**

TITLE IV
Powers and Duties of the City Officers

§ 53. The mayor shall be the chief executive officer of the corporation and ex officio a member of the board of health and a member of the board of estimate and apportionment. He shall have his office open daily for the transaction of business, and his position shall be full time as an employee of the City of Middletown. He shall sign all deeds and contracts made and entered into by the city and shall affix thereto the city seal which shall be in his custody. Whenever there shall be a vacancy in the office of mayor, or whenever by sickness or absence from the city or other cause, the mayor shall be prevented from attending to the duties of his office, the president of the common council, if not unable to act by reason of any of the causes previously mentioned in this sentence, shall act as mayor, and possess all the rights and powers of mayor, during such disability, or in case of a vacancy, then until the next charter election, and until the mayor then elected shall have duly qualified; and in case of the death, resignation or removal from office or from the city of the mayor, the said president of the council as aforesaid shall become mayor and shall be entitled to receive the salary of the office. It shall not be lawful for the president of the common council, when acting as mayor, in consequence of the mayor's sickness or absence from the city or other temporary disability, to remove or suspend from office, nor to sign, approve or disapprove any resolution or ordinance, unless such sickness, absence or other disability of the Mayor, shall have continued for the space of fifteen days. In case of a vacancy in the office of mayor, the aldermen shall elect a temporary chairman to preside over their meetings, and who shall possess, during such vacancy, the powers and perform the duties of the president of the council. Said common council shall also have power to appoint an alderman from the ward from which the president was elected, to discharge the duties of an alderman of said ward so long as said vacancy in the office of mayor shall continue and the president of the council shall be acting mayor by reason thereof. Whenever there is a vacancy in the office of mayor, there shall be an election for mayor at the next charter election and the person thus elected shall hold for the remainder of the term of the person in whose place he was elected. **[Amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1953, Ch. 878, § 184; L.L. No. 4-1998]**

§ 54. It shall be the right and duty of the mayor:

- a. To administer the oath of office to the aldermen elect and communicate to the common council, at least once a year, a general statement of the finances as he shall deem expedient, and annually and as much oftener as he shall deem proper, communicate to the council his views and recommendations with reference to the city government. He shall have power to administer oaths and take affidavits and acknowledgments within said city that justices of the peace have, and shall be entitled to receive therefor from any person, except the city, the same fees and compensation. But all oaths, affidavits, or acknowledgements, taken or sworn before him for the city, or any officer or agent acting for the city, shall be taken without any fee or charge.
- b. To call out and command the police and firemen, as their head, whenever in his discretion he shall deem an emergency so requires, and such command shall in all respects be obeyed.

- c. To be vigilant and active in causing the ordinances of the city and the laws of the state to be executed and enforced within said city, and for that purpose he may call together, for consultation and cooperation, all other heads of the city affairs and departments.
- d. To suspend, for cause, any officer appointed by said common council or any officer, appointee or employee of said city, for a term not exceeding thirty days. Whenever any officer, appointee or employee of said city except a member of the police force is suspended by said mayor, he shall forthwith give written notice thereof to the common council, and shall report, in writing, such suspension to the common council at its next meeting thereafter, stating therein the grounds of such suspension, together with such recommendation as he may deem proper. But there shall be but one suspension for the same cause, and the common council, upon receiving such notice, shall appoint a committee of investigation thereof, which committee shall have power to send for persons and papers, to issue subpoenas for witnesses and compel their attendance, and, by its chairman, to administer oaths, and to fully investigate the same; and the said common council may, in its discretion, restore or dismiss said officer or employee and declare his office, appointment or employment vacant and terminated; and in case of dismissal, such office and position shall become and be vacant, and shall be filled by appointment by the mayor as in case of death or resignation of any city officer, except as otherwise provided.
- e. In case he deems it necessary, he may appoint any person or persons to perform the duties, or continue to take charge of the official affairs of the officer suspended, until the matter of such suspension shall be investigated and determined.
- f. To have power, at all times, to examine the books, vouchers, papers of any department, officer or employee of said city, and to summon and examine, under oath, any person connected therewith.

[§ 54 amended by L. 1911, Ch. 699; L. 1916, Ch. 200; by L. 1922, Ch. 613; L.L. No. 4-2003]

§ 55. It shall be the duty of every Alderman in said city to attend the special and regular meetings of the Common Council, to act upon committees when thereunto appointed, to report to the Mayor all subordinate officers who are guilty of any official misconduct or neglect of duty, and to aid in maintaining peace and good order, and to perform or assist in performing all such duties as are by this act enjoined upon the Alderman of said city separately, or upon the Common Council thereof. **[Amended by L.L. No. 1-1990]**

§ 56. The collectors provided for by this Charter shall have the same powers and duties as collectors in any town in the County of Orange, except as otherwise provided in this Charter or the Local Finance Law. **[Amended by L. 1943, Ch. 710; L.L. No. 1-2009]**

§ 57.¹⁵ The City Clerk shall act as Registrar of Vital Statistics and Clerk of the Common Council, and perform such other duties consistent with the law as may be prescribed by the Common Council. He or she shall attend and keep accurate minutes of said Council meetings and shall conduct their correspondence. He or she may employ assistants as he or she may deem necessary provided the same shall have been authorized and compensation fixed by the Board of Estimate and Apportionment. [Amended by L. 1922, Ch. 613; L.L. No. 1-1928; L.L. No. 1-1931; L.L. No. 4-1932; L.L. 5-1983; L.L. No. 2-2007]

§ 58. [Amended by L. 1943, Ch. 710; repealed by L.L. No. 1-2009]

§ 59. The commissioner of assessment and taxation shall be the head of the department of assessment and taxation. He may appoint and for cause remove such employees as he deems necessary for the proper conduct of the business of his office, provided that the position has been authorized and the salary thereof fixed by the board of estimate and apportionment. The commissioner of assessment and taxation shall possess all the powers conferred upon, be subject to all the obligations imposed upon and perform all the duties pertaining to the office of assessor in the towns of this state, except as otherwise provided by law. He shall value all real estate in the city on one common and general principle of valuation which shall apply to all real estate assessed within the city, including improved and unimproved property. In the case of improved property the land shall be valued separately by him and such separate valuation and the aggregate valuation of the whole property shall be entered and appear in separate columns upon the assessment roll. When there are two or more houses on one lot, the valuation of each shall be shown. He shall keep a record of all transfers of real estate in the city. He shall assess the value of personal property in the name of the owner thereof. He shall continuously revise and correct the assessment map. He shall keep an accurate index of the assessment roll as the same appears from year to year and shall note thereon the changes in the assessments as the same are made with the dates thereof. He shall publish and issue prior to grievance day each year in pamphlet form for general distribution the assessment-roll as completed by him showing a tabulated comparison with the assessments of the two preceding years. But no error in such pamphlet shall invalidate any assessment or tax levied thereunder. [Amended by L. 1904, Ch. 560; L. 1911, Ch. 187; L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 2-1998]

§ 59-A. [Added by L.L. No. 1-1965; amended by L.L. No. 2-1971; deleted by L.L. No. 2-1998]

§ 60. **Annual Assessment Roll.** All real property subject to taxation shall be valued as of the preceding first day of January. The taxable status date of real property in the City shall be determined annually as of the first day of March. All real property shall be assessed in the City according to its condition and ownership as of such date. The annual assessment roll of the City shall be completed by the Commissioner of Assessment on or before the first day of May in

¹⁵Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

each year and shall be filed immediately with the Department of Assessment. The Commissioner of Assessment shall cause a notice to be published in at least one (1) paper published in the City to the effect that the said annual assessment roll has been completed, is on file in his office, and is open for inspection by any interested person during office hours until a day specified in such notice, such day being not less than fifteen (15) calendar days after the publication of the said notice. During such inspection period, any taxpayer feeling himself aggrieved by the valuation placed on his property by the Commissioner of Assessment may file a written appeal from such assessment with the Commissioner of Assessment. At the close of the inspection period, the Commissioner of Assessment shall present the assessment roll, together with all written appeals received by him as aforesaid, to the Chairman of the Board of Assessment Review (which Board of Assessment Review is described in greater detail below). The Chairman of the Board of Assessment Review shall transmit the assessment roll and all such written appeals to the members of the Board of Assessment Review. The Board of Assessment Review shall cause a notice to be published in at least one paper published in the City to the effect that the assessment roll is in the hands of the Board of Assessment Review, and that the Board of Assessment Review will meet in regular session on the fourth Tuesday in May to consider such roll and to hear objections thereto. [Added by L.L. No. 2-1998¹⁶]

§ 60-A. Board of assessment review.

- A. Purpose and Membership. The Board of Assessment Review shall hear and determine complaints in relation to assessments of real property and shall have all the powers and duties imposed by law on Boards of Review by Article 5 of the State Real Property Tax Law and by any other law. The Board of Assessment Review shall consist of not fewer than three (3) nor more than five (5) members. The members of the Board of Assessment Review shall be appointed by the Mayor and shall have a knowledge of property values in the City. Neither the Commissioner of Assessment nor any member of his family or his staff, nor any members of the families of any of his staff, may be appointed to the Board of Assessment Review. A majority of such Board shall consist of members who are not officers or employees of the City. The terms of office of members of the Board of Assessment Review shall be five (5) years.
- B. Procedure. The Board of Assessment Review shall fix the hours for its regular session on the fourth Tuesday in May to hear complaints, appeals or grievances about the assessment roll or any portion thereof, and such hours shall be for a period of at least four (4) hours, not necessarily continuous, between 9:00 a.m. and 10:00 p.m., but in no event less than two (2) hours after 6:00 p.m. Unless otherwise set by said Board, the Board of Assessment Review will meet on the fourth Tuesday of May from 3:00 p.m. until 5:00 p.m., and again on the fourth Tuesday in May from 7:00 p.m. until 9:00 p.m. The Board of Assessment Review shall, at its regular session on the fourth Tuesday in May, consider the assessment roll and all appeals that have been filed in writing with the Commissioner of Assessment or have been presented, in writing or in person, at such regular session. The said Board may also schedule such other special sessions as it deems necessary to consider the appeals presented to it.

¹⁶Editor's Note: Original § 60, as last amended by L.L. No. 3-1968, was deleted by L.L. No. 2-1998.

The Board of Assessment Review may amend or correct any item on the assessment roll and may defer action from time to time, but not later than the first day of July. A majority of the members of the Board of Assessment Review shall prepare and verify a statement showing the changes determined to be made by them in the assessment roll. Such verified statement shall be delivered to the Commissioner of Assessment on or before the first day of July, and such statement shall not only show the changes made by said Board but shall also confirm the assessment roll as prepared by the Commissioner of Assessment and as amended and corrected by the Board of Assessment Review.

[§ 60-A added by L.L. No. 2-1998]

§ 60-B. Filing of final assessment roll. The Commissioner of Assessment, as soon as possible after receiving such verified statement from the Board of Assessment Review, and in any event within the time period as may be set forth in the general law of the State, shall make the changes in assessment on the assessment roll in accordance with such verified statement and shall certify on such verified statement that he has recorded on the assessment roll the changes set forth in such verified statement of the Board of Assessment Review. The Commissioner of Assessment shall then cause a notice to be published in at least one (1) paper published in the City to the effect that the completed assessment roll has been filed with him as required by law. In addition, in the event the law requires the filing of the assessment roll with the County or with the State, the Commissioner of Assessment shall deliver or file the assessment roll as required by such law. **[Added by L.L. No. 2-1998]**

§ 60-C. Correction of assessment roll by council in certain circumstances. After the confirmation of the assessment roll by the Commissioner of Assessment, the Common Council may, on the petition of the Commissioner of Assessment, correct the said assessment roll in the following instances:

- A. Where the same property has been assessed more than once on the said roll, the excess assessment or assessments shall be cancelled.
- B. Where any unimproved property has been assessed as improved property, the assessment may be reduced to such sum as may be fixed by the Commissioner of Assessment.
- C. Where any taxable property has been omitted from the roll of the preceding year, it may be placed on the roll for the current year at a valuation to be fixed for the preceding year by the Commissioner of Assessment and shall be taxed at the rate per centum of the preceding year.
- D. Where any taxable property has been omitted from the roll for the current year, it may be placed thereon at a valuation to be fixed by the Commissioner of Assessment and shall be taxed at the rate per centum of the current year.

[§ 60-C added by L.L. No. 2-1998]

§ 60-D. Description of assessed properties. In the assessment of any properties in the City for any purpose, it shall be sufficient to state the name of one (1) of the owners of such property or properties if the name of the owner or owners or any of them is known to the Commissioner of Assessment. If the name of the owner or owners is or are unknown to the Commissioner of Assessment, the assessment may designate the owner as unknown, which shall be deemed to be sufficient. There shall be stated the street and number of any building thereon, which shall be deemed an adequate description. If the property assessed is a vacant lot, the name of the street on which it fronts and a brief description of the property shall be deemed an adequate description. No assessment heretofore or hereafter made in the City shall be held invalid because the same may be made out against an owner or owners unknown; or against the estate of a deceased person, naming such person or the executor, heirs or devisees of such person; or against a company or firm name; or against a person who is the owner of record, although such person is not the actual owner of the property. No assessment heretofore or hereafter made in the City shall be held invalid for any cause arising through ignorance or mistake as to the name or names of the owner or owners of the property assessed. Every assessment roll shall be considered as referring to the last adopted or last filed map, unless it is otherwise stated in said roll. No assessment or tax for any purpose shall be cancelled or otherwise affected by reason of any error or defect not actually fraudulent in any of the proceedings required to be taken as preliminary to or in the making of the assessment or in the levying or collection of the tax. **[Added by L.L. No. 2-1998]**

§ 61.¹⁷ The City Clerk shall keep all papers belonging to the city. His or her office is hereby declared a town clerk's office, for the purpose of depositing and filing therein all books, chattel mortgages and papers required by law to be filed in a town clerk's office, and he or she shall possess all the power, and discharge all the duties of a town clerk, except so far as the same shall be inconsistent with other provisions of this act and the local finance law. He or she shall have power to administer oaths and take affidavits and acknowledgments within said city that justices of the peace have, and shall be entitled to receive therefor the same fees and compensation. But all oaths, affidavits or acknowledgments, taken or sworn before him or her for the city, or for any officer or agent acting for the city, shall be taken without any fee or charge. The City Clerk shall be a full-time employee of said City and shall serve three (3) year terms, and until the successors to the City Clerk shall qualify. The City Clerk shall not receive from the city, nor from any other person or persons, any fee or reward for any service as Clerk. All fees for filing and recording papers as town clerk, as provided by law, and for certifying copies of papers required for evidence by any person or party except the city, for which certification he or she shall charge ten cents per folio, shall belong to the city of Middletown. **[Amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 5-1932; L. 1943, Ch. 710; L.L. No. 2-2007]**

¹⁷Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

§ 62.¹⁸ The Treasurer of said city shall be the collector who shall receive all moneys belonging thereto, and the moneys raised by authority of the Common Council; and he or she shall keep an accurate account of all receipts and expenditures in such manner as the Common Council shall direct. The Treasurer shall be a full-time employee of said City and shall serve three (3) year terms, and until the successors to the Treasurer shall qualify. The Treasurer shall act as clerk of the Board of Estimate and Apportionment and attend all their meetings, and shall perform all the duties of collector of water rates of said city. The Treasurer shall deposit all moneys received by him or her daily during tax collection periods in such banking institutions as may be designated and approved by the Board of Estimate and Apportionment. All money shall be drawn from the treasury in pursuance of the order of the Common Council, by warrant signed by the Mayor, or Acting Mayor and the Treasurer; such warrant shall specify for what purpose the amount therein named is to be paid, and the Treasurer shall keep an accurate account of all orders drawn on the treasury, in a book to be provided for that purpose, which shall be open to the inspection of any elector of said city at all reasonable hours. At the close of the financial year the Treasurer shall prepare and file with the Common Council a full statement of receipts and expenditures, after the date of his or her last annual report, and also the state of the treasury, which report shall be printed and published in recapitulated form, in the official newspaper or newspapers, and said Treasurer shall also report to the Common Council, at each regular monthly meeting thereof, what moneys have been received by him or her during the preceding month, with a statement showing to what fund such moneys have been credited by the Treasurer.

The reports of the Treasurer shall be filed within sixty days of the close of the fiscal year and shall date from the last annual report.

[§ 62 amended by L. 1907, Ch. 653; L. 1911, Ch. 699; L. 1922, Ch. 613; L. 1953, Ch. 878, § 185; L.L. No. 2-1975; L.L. No. 2-1996; L.L. No. 1-2001; L.L. No. 2-2007]

§ 62-A. The fiscal year ending November 30, 1975, shall be extended one month until December 31, 1975, and thereafter the fiscal year shall begin on January 1 and end on December 31 of each year. **[Added by L.L. No. 2-1975]**

§ 63. The Treasurer of said City shall be the collector of all City taxes and assessments in said City and shall perform the duties and be subject to the liabilities and obligations prescribed by law for town collectors, subject to the provisions of this charter, and he shall keep his books in such manner as the Common Council may prescribe. Immediately upon the expiration of the time limited in any warrant issued to him for the collection of any tax or assessment, said Treasurer shall report and make return to the Common Council under oath, stating the amount by him collected, and that he has entered upon the assessment or tax roll the several payments made to him, opposite the name of each person, company or corporation so paying, his payments of the money so collected, to what officer, with his vouchers therefor; and the several amounts of taxes or assessments which have not been collected by him and remaining unpaid

¹⁸Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

with the names of those who have not paid opposite such amounts; and on such report being received and accepted by the Common Council the several items of unpaid taxes or assessments contained therein shall be entered by said Treasurer in a book provided by said Common Council, and to be kept in his office. On all first installment taxes, except as provided in this charter, remaining unpaid after the expiration of thirty days, the Treasurer shall collect two per centum additional as a penalty; and on all first installment taxes remaining unpaid on the first day of April next after such first publication, there shall be collected, in addition to said two-per-centum penalty, interest at the rate of one per centum per month from the said first day of April. On all second installment taxes, except as provided in this charter, remaining unpaid after the expiration of thirty days from the date of the first publication of the second notice the Treasurer shall collect two per centum additional as a penalty; and on the second installment taxes remaining unpaid on the first day of August next after such first publication, there shall be collected in addition to said two-per-centum penalty, interest at the rate of one per centum per month from the said first day of August. All said interest, together with the two-per-centum penalty added after the expiration of the thirty-day period, shall belong to the City; and such tax and interest thereon at the rate aforesaid, together with the highest rate of fees for collecting the sum specified in such warrant, may be sued for and recovered by the City against any person liable therefor except as otherwise provided in this act. The Common Council shall provide a suitable room for the Treasurer's office, and all necessary books, blanks and stationery for his use, and the Treasurer shall attend at such room in the discharge of his duties at such time as prescribed in § 73 of this charter. The City Treasurer so performing the duties of collector shall not be entitled to collect or receive any fees for his service other than his regular compensation or salary as such City Treasurer. It shall be the duty of the City Treasurer, after the expiration of thirty days from the time any general or special tax shall be due and payable, as herein provided, to add the sum of two per centum upon all such taxes then remaining unpaid, and said two per centum so added shall belong to the City of Middletown. The Corporation Counsel or other attorney for said City shall pay all taxes or assessments including interest and fees which he shall collect and which shall have been placed in the hands of such Corporation Counsel or attorney for collection to the City Treasurer, and shall take receipt therefor showing the several amounts collected, the tax or assessment for which received and from whom, and such City Treasurer shall then make the necessary entries upon his books showing such payment, so as to discharge the same thereon. In case the City Treasurer shall not use due diligence in the collection of taxes or assessments or comply with the requirements of this section, it shall be sufficient cause, and he may be suspended by the Mayor, and removed by the Common Council, pursuant to the provisions of this charter with reference to the suspension and removal from office. **[Amended by L. 1911, Ch. 187; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 3-1932; L.L. No. 2-1954; L.L. No. 4-1958; L.L. No. 1-1959; L.L. No. 3-1979; L.L. No. 2-1996]**

§ 64. The Board of Estimate and Apportionment shall consist of the Mayor who shall be its President, the President of the Common Council and the Chairman of the Finance Committee of the Common Council. The Board shall meet upon the call of the Mayor, and as directed by resolution of the Board itself and not less than once in each month. It shall be the trustees of all sinking funds. Each act of the Board shall be by resolution adopted by a majority vote of its members. The Board shall fix the powers and duties and regulate the salaries and compensation of all city officers and employees, except as otherwise provided in this act, but no such salaries or compensation shall be effective until approved by the Common Council.

The Board of Estimate and Apportionment may provide that the employees of the Public Works Department, the Parks Department and the Water Department be hired on a per diem or a weekly basis and said board is empowered to increase the compensation of all city employees at any time during the fiscal year with the approval of the Common Council. The annual salary of the Mayor shall be ninety-five thousand dollars (\$95,000.00). The annual salary of the President of the Common Council shall be twenty thousand dollars (\$20,000.00). The annual salary of each Alderman shall be ten thousand dollars (\$10,000.00). The aforementioned salaries for the Mayor, President of the Common Council and each Alderman shall take effect with the terms of office commencing January 1, 2018. Salaries and compensation of officers and employees shall be paid at such times as the Common Council shall by general ordinance determine.

Except as otherwise provided in this act, the Board of Estimate and Apportionment shall make all purchases of insurance, supplies, materials, machinery, tools and appliances for the city and its various departments, and shall make all contracts for materials or supplies to be purchased and for work to be done for the city and its various departments, and shall make written monthly reports thereof to the Common Council.

[Amended by L. 1922, Ch. 613; L.L. No. 1-1932; L.L. No. 1-1944; L.L. No. 3-1948; L.L. No. 1-1949; L.L. No. 3-1949; L.L. No. 4-1949; L.L. No. 3-1951; L.L. No. 5-1951; L. 1952, Ch. 444; L.L. No. 2-1957, § 1; L.L. No. 2-1959; L.L. No. 1-1961; L.L. No. 1-1962; L.L. No. 1-1969; L.L. No. 2-1973; L.L. No. 1-1978; L.L. No. 1-1985; L.L. No. 3-2001; L.L. No. 1-2013, § 3; L.L. No. 2-2013, § 3; L.L. No. 6-2017, § 3]

§ 64-a. During the present war and for a period of six months thereafter, or during any other period determined to be one of emergency by the Board of Estimate and Apportionment and Common Council of the city, compensation may at any time be paid any officer or employee of the city, other than an elective officer, in addition to that originally fixed for the fiscal year and/or in addition to that for which provision is made in the annual budget, provided such additional compensation is fixed by the Board of Estimate and Apportionment and approved by the Common Council, and provided further that, at the time of such approval, the Common Council make available the necessary funds for payment of such additional compensation. **[Added by L.L. No. 2-1943]**

§ 64-b. It shall be the duty of the Common Council to appropriate annually sums of money sufficient to pay the salaries and compensation of policemen and patrolmen of the Police Department and of paid firemen (drivers) of the Fire Department, as fixed by the Board of Estimate and Apportionment of the City of Middletown, and upon the adoption of this local law to appropriate immediately a sum sufficient to pay said salaries and compensation commencing December 1, 1957. **[Added by L.L. No. 3-1948; amended by L.L. No. 2-1957]**

§ 65. The corporation counsel of said city shall be an attorney and counselor of the Supreme Court of the State of New York and shall be the legal advisor of the Common Council, Mayor and of all other city officials and boards. The said corporation counsel shall be a full-time employee of said City and shall serve three (3) year terms, commencing January 1, 2017, and

until the successors to the corporation counsel shall qualify. It shall be his duty, when required so to do, to prosecute all suits, actions and proceedings brought in the name of or to be defended in behalf of the city of Middletown, or any of its boards, and also to appeal on behalf of the people and prosecute in the city court of said city all criminal actions and proceedings which he shall be directed by the Mayor to prosecute in said court; provided, however, that it shall not be the duty of the Corporation Counsel to undertake collections of taxes or water rents or to conduct tax sales, unless directed so to do by resolution of the Common Council; and provided further, however, that nothing herein contained shall prevent the common council from employing in behalf of the city, an attorney other than the corporation counsel, for any purpose nor prevent the payment to such attorney of reasonable compensation, as authorized by section twenty-six of this charter.

The Corporation Counsel of the City shall receive such salary and compensation as may be fixed by the Board of Estimate and Apportionment and confirmed by the Common Council.

[§ 65 amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 10-1942; L.L. No. 1-1996; L.L. No. 1-2003; L.L. No. 1-2009; L.L. No. 1-2016]

§ 66. [As last amended by L. 1943, Ch. 710, repealed by L.L. No. 2-1958, § 1]

§ 67. The city engineer and surveyor shall be subject to the orders of the commissioner of public works at all times. He shall do all the surveying and engineering work for all departments of the city and shall keep map records of all sewers, water mains, grades of streets and of all curbing ordered. All maps and profiles pertaining to the water works, water mains, sewers, streets, and curbing and grading of streets, and all tax maps of the said city, shall be filed with, and remain in the custody of, the said city engineer and surveyor and it shall be his duty, from time to time, to make such changes and alterations as may be necessary therein, and to keep and maintain the same so as to accurately show all such changes whenever and wherever they may occur. The common council may cause a map to be made of all the streets, highways, side and cross walks, drains, sewers and water mains in said city, which map shall be filed in the office of the said city engineer and surveyor; and maps of all changes, additions or alterations in or to said streets, highways, alleys, side and cross walks, drains, sewers and water mains, subsequent to the filing and recording of said map, shall be filed therewith as soon after such changes, additions or alterations are made as may be. Such records and maps shall be prima facie evidence of the facts therein stated, described or portrayed in all actions and courts, and the said lands so mapped shall be, and shall thereafter continue to be, the property of said city. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 4-1924]**

§ 68. It shall be the duty of the commissioner of public works to superintend, under the direction of the mayor and common council, all work to be done or performed upon any of the public highways, streets, gutters, walks, crosswalks, bridges, sewers, sewage disposal works, or public grounds, or property of said city; to see that the streets and public places of said city are safely maintained, and that all holes in streets are immediately filled, and that all drains are at all times kept open; to provide for the removal of dirt, snow, ice and refuse from the streets of

said city; to have charge and control of the reservoirs, water works, filter plant and water pipes and mains of said city, and to enforce all proper rules and regulations and orders to provide for the protection and preservation of said water works, reservoirs, mains and all property connected therewith; to make all needed repairs and procure all the necessary supplies for said fire department and separate companies thereof except as otherwise provided in this act; to purchase, at the expense of said city, necessary materials, tools, implements, machinery and utensils; and hire and employ the requisite laborers and assistants provided the same shall have been authorized and their compensation fixed by the board of estimate and apportionment. The said commissioner of public works shall be a full-time employee of said city and shall serve five (5) year terms, commencing January 1, 2005, and until the successors to the commissioner of public works shall qualify.

He shall compel every person to clean the ice and snow from the sidewalk in front of any lot owned or occupied in whole or in part by such person, and in case of neglect so to do said commissioner of public works shall clean or cause to be cleaned such sidewalk and the expense thereof, together with six per centum in addition thereto shall become a lien upon said lot and property to be collected in the same manner as other assessments are collected as provided by this act.

He shall possess all the powers and discharge all of the duties of commissioners of highways of towns of the state except as limited by this act.

No street shall be opened nor shall anything be erected in said streets without the permission of the commissioner of public works, except by order of the common council.

He shall also enforce all ordinances and regulations relating to the construction, repair and alteration of the buildings in the city.

He shall have charge of all poles and wires and see that they are kept safe and in good repair.

The commissioner of public works shall discharge all the duties imposed upon the city engineer and surveyor by the charter or otherwise by law, and the commissioner may from time to time when authorized by the common council, engage a civil engineer to assist him in the discharge of said duties.

The Commissioner of Public Works shall discharge the following duties previously imposed upon the Board of Health:

- a. To enforce the public health law within the city;
- b. To abate all nuisances detrimental to the public health or dangerous to human life, by action at law or in equity in the name of the city, or without action as a natural person may do;
- c. To enforce and to aid in the enforcement of all laws of the state relative to the preservation of human life, or to the care, promotion or protection of life;

- d. To cause the vacation of any building which is unfit for human habitation or dangerous to life or health;
- e. To take all steps necessary to the sanitary supervision and protection of the water supply of the City, and the sources thereof.
- f. To order and enforce the repairing of buildings, structures and houses, when necessary for the public health.

In the event of the Commissioner of Public Works' absence or inability to perform the duties of the office, the three Deputy Commissioners shall be authorized to act generally for and in place of the Commissioner of Public Works. The Commissioner may so temporarily appoint one of the three Deputy Commissioners on a case-by-case basis.

[§ 68 amended by L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1922, Ch. 613; L.L. No. 3-1928; L.L. No. 2-1997; L.L. No. 2-2004; L.L. No. 2-2005; L.L. No. 1-2009]

§ 68-a. [Added by L. 1911, Ch. 699; amended by L. 1916, Ch. 200; repealed by L.L. No. 1-2009]

§ 68-A. The Commissioner of Public Works of this city shall have the power and it shall be his duty to supervise the fire-alarm system in this city, and its wires, poles, appliances and appurtenances, and to see that the same are duly maintained and kept in repair, and periodically inspected. It shall be his duty to have regular inspections conducted of the fire-alarm system by a competent electrician or lineman, and to report in writing at least monthly to the Mayor and Common Council of the city concerning such inspections; and it shall be his duty to promptly report to the Mayor and Chief of the Fire Department of the city any part or parts of the fire-alarm system needing repairs, replacement or enlargement, to the end that the entire system shall at all times operate properly and efficiently. **[Added by L.L. No. 3-1942]**

§ 68-B. The Commissioner of Public Works of the city shall be and he hereby is authorized to employ a civil engineer and surveyor, a building inspector, an electrician, an assistant superintendent of the water department, and a superintendent of sewer and streets, and such other foremen, assistants and employees as he may require for the carrying out of his duties. The salaries, compensation and wages of all such employees shall be fixed by the Board of Estimate and Apportionment of this city, and no such salaries, wages or compensation shall be effective until approved by the Common Council of this city. **[Added by L. L. No. 4-1942]**

§ 68-C. The Commissioner of Public Works of the city be and is hereby authorized to appoint the Plumbing Inspector or Inspectors of the city, subject to the provisions and limitations of law, and further, said Inspector or Inspectors shall work with and under the supervision of the Commissioner of Public Works. **[Added by L.L. No. 2-1976]**

§ 69. [Amended by L. 1922, Ch. 613; repealed by L.L. No. 1-2009]

§ 70. [Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; repealed by L.L. No. 1-2009]

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TITLE V
Assessment and Collection of Taxes
[Amended by L. 1922; Ch. 613]

§ 71. Annual budget and tax.

1. Annual estimates. On or before the first day of September in each year, the common council, all heads of departments, boards, commissions, city judge and officers empowered by law to expend money shall furnish to the mayor as presiding officer of the board of estimate and apportionment, itemized estimates in writing of the amount required for the next fiscal year in their respective departments, boards, commissions, courts or offices. Each such estimate shall set forth in detail the amounts required for salaries and expenses and all other necessary items, in detailed comparison with the amounts expended in the preceding fiscal year and the amounts appropriated for the current fiscal year, according to rules prescribed by the board of estimate and apportionment. Thereafter during the month of September and on or before the last day of said month, the mayor shall lay the estimates before the board of estimate and apportionment. The board of estimate and apportionment may make such changes in the estimates as it shall deem necessary. Copies of the estimates shall be filed with the Treasurer at the same time they are filed with the Mayor. The Board of Estimate and Apportionment shall file with the Treasurer an itemized estimate for any expenditure not included in the foregoing estimates for which appropriation is to be made.
2. Education budget. **[Repealed by L. 1953, Ch. 878, § 325 (2) Schedule "A"]**
3. Financial statement. On or before the fifteenth day of October of each year, the board of estimate and apportionment shall make an itemized statement in writing of the estimated revenues and expenditures of the city for the fiscal year, other than the amounts to be raised by taxation for state and county purposes. Said board shall also make a detailed statement of all the property revenue which in its judgment will be received by the city during the fiscal year, and a statement of the amount of the sinking fund which in the judgment of the board will be available for the payment of the principal or interest on any bonded indebtedness of the city falling due during the fiscal year. The board shall also make a supplemental statement of all unencumbered balances of the previous fiscal year. All such estimates of revenues, available sinking fund moneys and unencumbered balances shall be made in detailed comparison with the actual amounts for the preceding fiscal year and the estimated amounts for the current fiscal year. The estimate of expenditures shall contain an itemized statement, in detailed comparison with the amounts expended in the preceding fiscal year and the amounts appropriated for the current fiscal year for such purposes, of the several amounts of money which the board of estimate and apportionment deems it necessary to provide for all departments, boards, bureaus, commissions, courts, offices, purposes, functions, funds and accounts authorized or directed by law.
4. Budget hearings. All meetings of the board held to consider the budget estimates shall be open to the public. The board of estimate and apportionment shall arrange for and hold at least one public hearing on the budget estimates prior to its final approval of said estimates. Notice of the public hearing shall be given by publication for two successive days in the

official newspaper and such hearing shall be held not earlier than five days after the day of the last publication of such notice.

5. Powers of Council. After the annual estimate showing the estimated net amount required to be raised by taxation for said purposes has been completed, the board of estimate and apportionment, on or before the fifteenth day of November in each year, shall submit the same in final form to the council and may submit a statement in writing of its reasons for such estimates. Said council shall have the power to correct, revise and amend such estimate or any part thereof, but it shall have no power to increase the total thereof, provided, however, that the budget adopted by the council for the fiscal year beginning December 1, 1957, if said budget has been heretofore adopted by the council, shall be revised and amended by the board of estimate and apportionment so as to include the salaries and compensation for members of the Police Department and Fire Department as set forth in the schedules thereof in Title IV, Section 64, as amended by Section 1 of this local law, and also to include additional appropriations of revenue to meet the increased salaries and compensation as aforesaid, and as revised and amended by said board of estimate and apportionment, shall be adopted by the council. The board of estimate and apportionment shall also submit to the council when received the sums apportioned by the board of supervisors of Orange County to be levied in the city for state and county purposes. Said estimates as corrected, revised and amended, together with the sums directed to be levied for state and county taxes, which shall be adopted without change by the council, shall upon adoption by the council as provided in section seventy-three, become the annual budget and shall be entered in full on the minutes of the council.
- 5.5 The Common Council shall vote on the proposed budget at a regular or special meeting held prior to the tenth day of December. If for any reason, a budget is not approved prior to the thirty-first day of December, then all appropriations in the next year shall be based upon the levels of the previous year's budget so that the City shall continue to operate until a new budget is enacted.
6. Contingent fund. The board of estimate and apportionment may make an apportionment or supplement an apportionment by the transfer from the contingent fund of such an amount as it deems necessary. No direct charge for expenditures shall be made against the contingent fund.
7. Amounts to be raised by tax. The amounts included in the estimates of the several departments, boards, commissions, and offices to be raised or required by law to be raised by tax for the expenses of general government, the protection of persons and property, streets, public improvements, sanitation, public health, public welfare, recreation, a contingent fund, judgments and settlements, contributions to the New York state employees' retirement system the principal and interest of the public debt of said city or any other obligations or debt which by law may be created against the city, and amounts as may be necessary to make up the deficiency occasioned by previous illegal and erroneous assessments and uncollected taxes and assessments, and of all such further sum or sums that may be required during any one year for carrying on the ordinary affairs and general expenses of the city, as authorized by this act or charter or by other law, shall be raised by general tax. Nothing contained herein shall prevent the financing in whole or in part, pursuant to the local finance law, of the payment of any judgment that may be recovered

against the city otherwise provided for, nor shall anything contained in this section or section seventy-two of this charter prevent the city from financing, in whole or in part, any expenditure pursuant to the local finance law. The common council shall also direct and cause such amount to be raised annually by general tax as shall be necessary for library purposes as certified by the board of education in the manner provided by law.

[§ 71 amended by L. 1904, Ch. 560; L. 1907, Ch. 653; L. 1910, Ch. 50; L. 1911, Ch. 187; L. 1911, Ch. 699; L. 1921, Ch. 56; L. 1922, Ch. 613; L. 1924, Ch. 557; L.L. No. 3-1933; L.L. No. 5-1944; L. 1945, Ch. 839; L. 1946, Ch. 939; L. 1953, Ch. 878, § 186; L.L. No. 2-1957, § 3; L.L. No. 1-2005; L.L. No. 2-2007]

§ 71a. Beginning December first, nineteen hundred forty-five, there shall be included in the annual budget for the cost of removal of snow and ice, an amount equal to at least the amounts prescribed in the schedule set forth below:

1. For the fiscal year beginning December first, nineteen hundred forty-five, an amount equal to at least one-fifth of the average of all expenditures for such purpose during each of the five preceding fiscal years.
2. For the first fiscal year succeeding such fiscal year, an amount equal to at least two-fifths of the average of all expenditures for such purpose during each of the five preceding fiscal years.
3. For the second fiscal year succeeding such fiscal year, an amount equal to at least three-fifths of the average of all expenditures for such purpose during each of the five preceding fiscal years.
4. For the third fiscal year succeeding such fiscal year, an amount equal to at least four-fifths of the average of all expenditures for such purpose during each of the five preceding fiscal years.
5. For the fourth fiscal year succeeding such fiscal year, and for each succeeding fiscal year thereafter, an amount equal to at least the average of all expenditures for such purpose during each of the five preceding fiscal years.

[§ 71a added by L.L. No. 4-1945]

§ 72. Nothing contained in Section 71 of this Charter shall be construed to prevent the City from financing, in whole or in part, any expenditure pursuant to the laws of the State of New York.

[§ 72 amended by L. 1907, Ch. 653; L. 1910, Ch. 50; L. 1911, Ch. 699; L. 1916, Ch. 200; L. 1921, Ch. 56; L. 1922, Ch. 613; L. 1924, Ch. 557; L.L. No. 2-1940; L. 1943, Ch. 710; L.L. No. 1-2009]

§ 73. The tax so directed to be raised shall be assessed upon all the taxable real and personal property in the city, according to the valuation of the city assessment roll of the current year; after the same shall have been corrected as hereinbefore provided. The said tax, together with any special tax which shall have been voted as herein provided, shall be levied by the common council at some meeting thereof on or before the tenth day of December in each year. The commissioner of assessment and taxation under the direction of the common council shall extend and apportion said tax on the assessment roll delivered to him as aforesaid, also one-half tax where there are two or more properties assessed to the same person, and shall correct all clerical errors in the description and valuation of all property, and shall forthwith file the same, and shall make a full duplicate or copy of the same, with the tax so extended and apportioned, and shall certify such copy to be a correct duplicate of the city tax-roll. Such roll shall on or before the first day of January be delivered by the Common Council to the Treasurer as collector, with a warrant annexed, under the seal of the city, to be signed by the Mayor, commanding him or her to review, levy and collect the several sums in the roll specified as assessed against the persons or property therein mentioned or described for municipal and other purposes with such rate per centum upon said sums for collecting the same as herein provided, and return the said warrant and roll within ninety days after the date of the warrant. Upon receipt of the tax roll and warrant the city collector shall cause a notice to be published once a week for two successive weeks in the official newspaper of the City of Middletown beginning the 1st day of February in each year and, again, once a week for two successive weeks beginning the 1st day of June in each year, designating some central and convenient place within the city where said collector will attend each day of the week except Saturdays, Sundays and holidays for the months of February and June, respectively, each year, and give notice that he will attend at such place with said roll and warrant from nine o'clock in the forenoon until three o'clock in the afternoon for the purpose of receiving payment of city, county and state taxes; and it shall be the duty of said collector to attend accordingly, and any person may pay his taxes at the time and place so designated on paying such amounts thereon as in this act provided. At the time of delivery to him of such roll and warrant, the collector shall endorse on the assessment and tax roll on file with the clerk a receipt acknowledging by him of the duplicate of such roll and warrant as city collector, and he shall proceed to collect the unpaid city taxes in said roll specified in the manner provided by law for the collection of county taxes, and shall have and possess all the powers and authority conferred by law on the collector of county taxes, and shall in like manner, pay over all city tax money collected by him to the city treasurer, and shall take his receipt therefor, and shall make return to the common council of the amount collected and paid over by him and of the city taxes remaining unpaid; and upon making oath before some officer authorized by law or this act to administer oaths and take affidavits, similar in all respects to the oath required by law of collectors of county taxes, he shall be credited by the common council with the amount of city taxes so remaining due and unpaid. And every assessment upon real estate, or water and sewer rents imposed under this act or the Charter, may, when due, be collected in the same manner as herein provided for the collection of taxes. The collector shall forthwith deposit all moneys received by him in the designated depositories to the credit of the city. **[Amended by L. 1911, Ch. 187; L. 1911, Ch. 699; L. 1922, Ch. 613; L. L. No. 3-1954; L.L. No. 1-1959, § 2; L.L. No. 2-1996; L.L. No. 1-1997; L.L. No. 2-2007]**

§ 74. The mayor, by the direction of the common council, may extend or renew from time to time any warrant which may have been issued for the collection of any tax or assessment, or may issue a new warrant for the collection thereof, and in such extension, renewal or new warrant, shall specify the time when the same shall be returned, and amount of fees to be collected, and in case of the issue of a new warrant, after any tax or assessment has been

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returned uncollected, such new warrant shall also direct the collection of interest on such taxes or assessments as the same is given to the city by this act; and the same proceedings shall be had upon such extension, renewal or new warrant as upon the former warrant. All the provisions of this act shall apply to the said taxes or assessments and the collection thereof, and to the powers and duties of the collector in relation to the same, after such renewal, extension or new warrant, in like manner as herein provided upon the warrant as originally issued. But the collector shall not be required, in cases of the renewal, extension or new warrant, to post or publish any notices.

§ 75. There shall be three funds, which shall be kept separate and intact from each other, namely: A general common council fund, which may be subdivided into smaller funds for different purposes, a water department fund, and an excise fund, and such additional fund as has been or may be hereafter established by the common council as a police pension fund. The common council shall have power to make transfers from different accounts in the general common council fund but it shall at no time order drafts to an amount in excess of the amount appropriated and available for general city purposes, and may also temporarily transfer such amount as it may deem advisable from one of the above named three funds to another but no such transfer shall be made from the police pension fund, in anticipation of the next annual or semi-annual tax installment, but such sum shall be transferred directly after the collection of such tax. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L. 1953, Ch. 878, § 187]**

§ 76. The City of Middletown will collect the real property taxes due the County of Orange with respect to real property within the corporate limits of the City, as such real property taxes are determined, assessed and imposed by the County Legislature. The County real property taxes shall be collected by the City at the same time and under the same installment process as set forth elsewhere in this Charter for the collection of City real property taxes. The County will print all real property tax bills issued by the City, at the County's sole cost and expense, and the City will pay for all costs of collection of County real property taxes imposed within the corporate limits of the City, except for the printing of the tax bills.

Delinquent County real property taxes within the corporate limits of the City shall be enforced and collected in the same fashion as set forth elsewhere in this Charter with respect to the enforcement and collection of delinquent City real property taxes.

The City will not guarantee the collection of County real property taxes imposed on properties within the corporate limits of the City, except as set forth herein. Within thirty (30) days of collection of any County real property taxes by the City, the City shall forward such collected real property taxes to the County. If any County real property taxes remain unpaid during the time set forth for collection of real property taxes without interest, and any such County real property taxes are thereafter paid to the City, the City shall, within thirty (30) days of collection of such delinquent real property taxes, pay to the County the base amount of the County real property taxes so collected; however, any interest and/or penalties collected by the City shall remain the property of the City and shall not be paid to the County, and the County shall not have any claim to any such interest and/or penalties. If the City shall take a deed to any property on which there are outstanding County real property taxes, whether by a tax sale proceeding or otherwise, then the City shall pay to the County, within thirty (30) days of the

City taking such deed, the base amount of the County real property taxes so collected; however, any interest and/or penalties collected by the City shall remain the property of the City and shall not be paid to the County, and the County shall not have any claim to any such interest and/or penalties.

[§ 76 added by L.L. No. 3-1996¹⁹]

§ 77. The roll and warrant for city taxes and any and all taxes, sums or amounts unpaid thereon shall belong to the city, and shall thereafter be enforced and collected in the manner provided for all city taxes, and any and all sums collected thereon shall be placed in the common council fund. **[Amended by L.L. No. 2-1996]**

§ 78.

- a. When any question involving the raising of funds for any purpose is submitted to the taxpayers at a special election if the council shall be of the opinion that the amount to be raised is too large to be raised by certificates of indebtedness or if it deems it more advisable for any reason, it may issue and sell bonds of the city for that purpose; such bonds shall be signed by the Mayor and the Treasurer and the seal of the city affixed thereto, and shall bear interest at not exceeding six per centum per annum, and become payable at such future period, not in excess of forty years, as the council may direct. A sinking fund for the purpose of payment of each such issue of bonds shall be provided, and there shall be levied by annual tax, or appropriated annually from the revenues of the department for the benefit of which the bonds are issued, the proper proportion of a sum sufficient to meet said bonds at their maturity. Said bonds shall be assignable and transferable and may at the option of the holder be registered in which case they shall be transferable only by endorsement of the persons in whose name they may stand as owner on the books of the Treasurer. They shall contain a statement of the purpose for which they are issued, and that a sinking fund has been provided for their payment.
- b. The council may borrow money and issue new bonds from time to time hereafter, as the bonds issued by the city shall respectively mature and fall due, to take up and replace, or as substitutes for such maturing bonds, provided the city has not sufficient funds on hand when said bonds shall mature to pay the same, which bonds shall draw interest from date, payable semi-annually, at a rate not exceeding six per centum per annum, and be payable at such times, and shall be in such form as the council shall direct when ordering the issue thereof, and a sinking fund as provided for in this section shall be provided for the payment of such bonds. The proceeds of the bonds so issued shall be used only for the retirement and payment of the previous issue.
- c. The council may prescribe the manner of the sale of all bonds or certificates of indebtedness, and in no case shall either or any of them be sold or issued for a less sum than their par value and accrued interest; they shall be approved by the corporation counsel as to

¹⁹Editor's Note: Former § 76, amended by L. 1922, Ch. 613 and L. 1933, Ch. 106, was repealed by L.L. No. 2-1996.

form. Notice of the sale of all bonds or other obligations shall be given in the manner and for the period prescribed by section nine of the general municipal law of the state of New York.

- d. All moneys, which shall be paid into the sinking fund shall be invested as soon as practicable and may be invested in the bonds of this city, those of any town or county or city in this state, bonds of the United States, certificates of indebtedness of this city, or such securities as it is lawful for savings banks to invest in. The investment of the fund shall be made under the direction of the Board of Estimate and Apportionment and in the name of the city. The securities shall be kept in a safe deposit box, access to which shall be had only by the Mayor and Treasurer jointly, or in the absence of the Mayor, the Acting Mayor and Treasurer jointly; the keys shall be kept by the Treasurer.

[§ 78 added by L. 1922, Ch. 613; amended by L. 1932, Ch. 29; L.L. No. 2-2007]

§ 79. Lien Dates.

1. Every tax or assessment for whatever purpose imposed or charged, upon any real estate within the City, by virtue of any of the provisions of this Charter, shall be a lien upon the real estate, within the City, upon which it is assessed from the time of filing of the applicable tax roll. Such liens shall be superior to any mortgage, judgment or other lien of any nature affecting said premises, excepting prior liens thereon for state and county taxes. If any such taxes or assessments shall be returned as unpaid by any officer authorized to collect the same, the Common Council may employ and direct an attorney, or the Corporation Counsel, or other proper officer, employed by the Common Council to advertise and sell such real estate in the manner hereafter provided. Whenever the Common Council shall order any parcel of land to be sold for any such tax, assessment, water rents or city lien, the order shall be made for all such taxes, assessments, water rents and city liens which may be then unpaid. Such sales shall be ordered by the Common Council at least once in two years, but no such sales shall be ordered in respect to any such liens unless the same have been in default of payment for at least three months.

2. All taxes levied upon the same assessment roll shall be enforced jointly, but the enforcement timetable and redemption period shall be based upon the latest of the applicable lien dates.

[Amended by L. 1922, Ch. 613; L.L. No. 2-2007; L.L. No. 1-2008²⁰]

§ 80. On or before the fifteenth day of December next after any tax, assessments and liens shall have been imposed upon any real estate in the City of Middletown, the Treasurer shall make and deliver to the Common Council a transcript of all such taxes, assessments and liens which remain unpaid for a period of three months from the date of the warrant or order for their collection, containing and showing the name of the owner or owners or occupant, so far as the

²⁰ **Editor's Note: This local law stated that it would take effect 6-30-2008 except that any delinquent tax or assessment with a prior lien date would be collected or enforced pursuant to the Charter provisions in effect as of such lien date.**

same shall be known to the Treasurer, with a brief general description of the location and kind of property. [Amended by L. 1904, Ch. 560; L. 1911, Ch. 187; L. 1922, Ch. 613; L.L. No. 2-2007; L.L. No. 1-2008²¹]

§ 81. Sale of unpaid tax liens.

1. Order of Sale. Before any sale of unpaid tax liens as described in Section 79 of this Charter, an order shall be made by the Common Council which shall be entered at large in the records of the City designating and directing the attorney or proper officer of the City to sell the liens on properties on which taxes, assessments and liens remain unpaid as particularly described in the certificate of the Treasurer as hereinbefore provided, a copy of which order shall be delivered to the officer so designated, who shall forthwith advertise the sale of said liens in the manner set forth herein, and the sale shall be conducted in the manner required in the case of sales of real estate on execution as provided in Section 5236 of the Civil Practice Law and Rules, except as herein provided.
2. Notice of sale. A printed notice of the time and place of the sale containing a description of the property encumbered by the lien to be sold shall be posted in Middletown City Hall at least thirty (30) days before the date fixed for the sale. A copy of the notice shall be served upon the property owner at least thirty (30) days before the date fixed for the sale by personal delivery or by registered or certified mail, return receipt requested, and by regular mail. A copy of the notice shall be published once per week for three (3) successive weeks in the official newspaper of the City, the last such notice being published at least seven (7) days prior to the date fixed for the sale. An omission to give any notice required herein, or the defacing or removal of a posted notice, does not affect the title of a purchaser without notice of the omission or offense.
3. Conduct and terms of sale. The proceedings may be stopped at any time before the sale by any person, by paying the amount of the tax or assessment, with the interest allowed thereon by this Charter, and the expense of advertising. The attorney or officer selling the lien shall require the purchaser, in the terms of sale, to pay at the close of the sale, a sum sufficient to pay said tax or assessment, interest, expense and charges. The purchaser shall not be required to pay more than sufficient to pay the tax or assessment, interest, expenses and charges until after the time for the redemption of such real estate shall expire, according to the provisions of this Charter. Said attorney or officer shall, in all cases, reduce his or her terms of sale to writing, and require the purchaser to subscribe the same; which terms of sale shall be annexed to the certificate of sale which is herein required to be filed with the Treasurer, and shall be filed with the same. All sales in such cases shall be at public venue, between the hours of nine o'clock in the morning and four o'clock in the afternoon, and shall be made to the highest bidder therefor.
4. Certificate of sale. One (1) certificate of sale of each lien so sold shall be made out, subscribed and acknowledged by said officer, and shall be filed in the office of the clerk of the county, within twenty (20) business days after such sale. Such certificate shall contain a particular description of the premises sold, the price bid for each distinct lot or parcel, the whole consideration money paid, the name of the person or persons against whom such tax or

²¹ Editor's Note: This local law stated that it would take effect 6-30-2008 except that any delinquent tax or assessment with a prior lien date would be collected or enforced pursuant to the Charter provisions in effect as of such lien date.

assessment was made, the name of the purchaser, the particular tax or assessment for which the sale was made, and the time of expiration of the redemption period for the subject property, when the purchaser shall be entitled to a conveyance according to this Charter.

5. Recording certificates. The certificate herein required to be filed in the county clerk's office shall be duly recorded by the said clerk, in the same manner as deeds are required by law to be recorded, and, being so recorded shall have the same effect as against subsequent purchasers and encumbrances as deeds and conveyances duly proved and recorded; and such certificate or record thereof, or a duly authenticated copy of such record, shall be received in all courts and places as prima facie evidence of the facts therein stated.

6. Evidence indexing. In indexing any certificate so to be recorded in his office or any deed which may be given pursuant thereto, the said county clerk shall index the same as follows: By inserting as grantor, the name of the person named in such certificate as the owner thereof, adding thereto the words "by the City of Middletown", and by inserting as grantee, the name of the person named in such certificate as the purchaser. The Treasurer of the City of Middletown shall provide and keep in his or her office a suitable book, in which he or she shall enter at length all such certificates of sale filed therein, and shall index all such certificates in the manner named above required.

7. Certificates assignable. The certificates of sale hereinbefore mentioned, shall be assignable by the purchaser or his legal representatives, and such assignment shall be acknowledged or proven in the manner required by law to entitle deeds of real estate to be recorded; and the Common Council may give to the assignee of any such certificate a conveyance of the real estate therein described, provided all assignments thereof shall have been duly recorded in the clerk's office of said county, after the expiration of the redemption period pursuant to the terms of this Charter.

[§ 81 amended by L. 1904, Ch. 560; L. 1922, Ch. 613; L.L. No. 2-1945; L.L. No. 2-2007; L.L. No. 1-2008²²]

§ 81-a. Bulk sales for unpaid tax liens.

1. Review by Treasurer. Notwithstanding any inconsistent provision of the Charter of the City of Middletown, the Treasurer of the City is hereby authorized to review for potential bulk sale all liens for city, county taxes, school district taxes, library taxes, business improvement district taxes, and assessments (such as water and sewer bills and miscellaneous charges imposed against real property in the City in accordance with this Charter) which are delinquent one month (hereinafter collectively referred to as "tax liens") and which are not (a) currently restricted in their enforcement by the provision of any bankruptcy law, or (b) related to any real property owned or controlled by the federal, state or local government or any agency, department or board thereof, against which enforcement of the lien is restricted or prohibited under applicable federal, state or local

²² Editor's Note: This local law stated that it would take effect 6-30-2008 except that any delinquent tax or assessment with a prior lien date would be collected or enforced pursuant to the Charter provisions in effect as of such lien date.

law, or (c) related to real property which has been identified by state or federal departments or agencies as having environmental contamination.

2. At least once every three (3) years, the Treasurer may solicit proposals from private entities for the purchase of tax liens in bulk, and such tax liens may be sold in bulk, in accordance with the terms and conditions set forth herein.
3. To solicit such proposals, the Treasurer shall cause to be published once in each week for two (2) consecutive weeks in the official paper of the City a statement that the City may offer tax liens for sale in bulk to a private entity on or after a specified date. Such statement may seek proposals from any interested entity which may wish to purchase from the City such tax liens in bulk.
4. The expense of such advertisement shall be added to and made a part of such tax liens and shall be included in the amount to be paid to the Treasurer for the purchase of such tax liens by the private entity in any such sale, along with any other accrued interest, fees and penalties to the date of such sale to a private entity.
5. If the Treasurer receives any proposals for the purchase of tax liens in bulk, the Treasurer will present such proposals to the Mayor and Common Council. The Mayor and the Common Council shall have the power to reject any and all such proposals and to agree to any such proposal as the Mayor and the Common Council determine to be in the best interests of the City. In addition, the Mayor and the Common Council shall have the power to require the private entity which submitted the successful proposal to modify any such proposal to include such terms and conditions as the Mayor and the Common Council deem appropriate and in the best interests of the City. Any such agreement shall be drawn or reviewed by the Corporation Counsel of the City and shall not be deemed to be effective until actually approved by the Common Council and signed by the Mayor.
6. The City shall have the power to enter into such agreement with a private entity whether or not the tax liens which are the subject of such agreement have already been the subject of a sale in accordance with Section 81 of the Charter of the City of Middletown.
7. If such an agreement for the sale of tax liens in bulk is made by the City and a private entity, then such private entity shall be deemed to have been and have all the rights of a successful bidder for the properties which are the subject of such agreement as if the liens for such properties were the subject of a sale as set forth in Section 81 of the Charter of the City of Middletown. Notice and conduct of such bulk sales shall be provided in accordance with the provisions of Section 81 of this Charter. All rights of redemption for such properties and the right of such private entity to receive a certificate of sale and deed to such properties shall be as described in and governed by Sections 79 through 105 of the Charter of the City of Middletown.

[§ 81-a added by L.L. No. 2-1934; amended by L.L. No. 1-1940; L.L. No. 3-1998; L.L. No. 2-2007; L.L. No. 1-2008²³]

§ 82. The right and title of the person to any real estate, encumbered by a lien which shall be sold as hereinbefore provided, shall not be divested by such sale, until the expiration of the redemption period as defined in Section 83 of this Charter; but if such real estate shall not have been redeemed as herein provided, and a deed shall be executed in pursuance of a sale, the grantee in such deed shall be deemed vested with the legal estate from the time of such sale, for the purpose of maintaining an action for any injury to such real estate. **[Amended by L.L. No. 1-2008²⁴]**

§ 83. Redemption.

1. The redemption period shall expire two years after the date of the lien as provided in Section 79 of this Charter. Notwithstanding the foregoing, if any notice published by the City pursuant to this Charter specifies a later date for the expiration of the redemption period, the redemption period shall expire on the date so specified. Other than the conditions set forth in the preceding sentence, the redemption period cannot be extended. **[Amended 6-3-2014 by L.L. No. 1-2014²⁵]**
2. Real property subject to a delinquent tax lien may be redeemed by payment to the Treasurer, on or before the expiration of the redemption period, of the amount paid by the purchaser of the lien or liens, and all other sums which the purchaser may have paid for taxes or assessments on said real estate; together with the interest thereon from the time such payments were made, at the rate of fifteen per centum a year, and the actual and necessary expense the purchaser may have incurred in the service of the notices provided for in this title; and on such payments being made the title acquired by such sale shall cease. Any person having any right, title or interest in, or lien upon, any such property may redeem such property in the manner provided herein. In case such payment is made by the owner of said real estate, then, and in that event, all mortgages, judgments, decrees or claims which were a lien on said real estate at the time the tax or assessment for which the sale has been made, became a lien thereon, shall be and remain liens upon said real estate, anything hereinbefore contained to the contrary notwithstanding. Upon such payment being made by any such person so entitled to redeem any real estate, the sale of the lien so redeemed, and the certificates of such sale shall be null and void, and the person so redeeming shall be entitled to have such certificate canceled of record.

²³ Editor's Note: This local law stated that it would take effect 6-30-2008 except that any delinquent tax or assessment with a prior lien date would be collected or enforced pursuant to the Charter provisions in effect as of such lien date.

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²⁵ Editor's Note: This local law stated that it would take effect 6-30-2014 except that any delinquent tax or assessment with a prior lien date would be collected or enforced pursuant to the Charter provisions in effect as of such lien date.

3. After the expiration of the redemption period as herein defined, if any part of the premises sold shall remain unredeemed, the Common Council shall give to the purchaser, his or her legal representatives or assigns, a conveyance of the premises so remaining unredeemed, which conveyance shall be valid and effectual to convey all the right, title and interest which may have been sold in the manner aforesaid and such conveyance shall be presumptive evidence in all courts and places that the tax assessment for which such lien may have been sold, was legally imposed and that the proceedings to authorize such sale were correct. The grantee named in any such conveyance may obtain possession of the real estate therein described, in the manner prescribed by law in relation to persons holding over demised premises, after the expiration of their terms, without the consent of their landlords, and said grantee, by virtue of such conveyance, shall acquire all the right, title and interest in the real estate therein described, and the right to the possession of the same, and shall have, hold and enjoy such real estate, free and clear from all claims, liens or encumbrances, except such taxes and assessments as may have been charged thereon at the time of such sale, or at any time thereafter.
4. If there exists more than one tax lien against a parcel, the liens need not be redeemed simultaneously, but may be redeemed in chronological order, so that the lien with the earliest lien date is redeemed first, and the lien with the most recent lien date is redeemed last. The conveyance process described in this Charter shall not take place unless there is a lien which has been in existence for the entire two-year redemption period. **[Amended 6-3-2014 by L.L. No. 1-2014²⁶]**
5. When one or more liens against a parcel are redeemed as provided herein, but any lien remains unredeemed, the receipt issued to the person redeeming shall include a statement in substantially the following form: "This parcel remains subject to one or more delinquent tax liens. The payment you have made will not postpone the enforcement of the outstanding lien or liens. Continued failure to pay the entire amount owed beyond the expiration of the redemption period will result in the loss of the property." Failure to include such a statement on the receipt shall not invalidate any tax lien or prevent the enforcement of the same as provided by law. Such partial redemption shall entitle the redeemer to have any certificate of sale canceled pursuant to the provisions of this Section, provided that such partial redemption reimburses in full the purchaser at said sale pursuant to the provisions of this Section. **[Amended 6-3-2014 by L.L. No. 1-2014²⁷]**

[§ 83 amended by L.L. No. 1-2008²⁸]

§ 84. [Repealed by L. 1922, Ch. 613]

§ 85. [Repealed by L. 1922, Ch. 613]

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§ 86. [Repealed by L. 1922, Ch. 613]

§ 87. [Repealed by L.L. No. 1-2008²⁹]

²⁹ **Editor's Note: This local law stated that it would take effect 6-30-2008 except that any delinquent tax or assessment with a prior lien date would be collected or enforced pursuant to the Charter provisions in effect as of such lien date.**

§ 88. [Repealed by L.L. No. 1-2008³⁰]**§ 89. [Repealed by L.L. No. 1-2008³¹]**

§ 90. The city treasurer is hereby required to give proper receipts for payments made to him under any of the preceding sections, and any receipts taken for payments provided for therein, acknowledged or proven in due form of law to entitle conveyance of real estate to be recorded, shall be evidence of such payments, and may be recorded and indexed in the clerk's office of Orange county, as deeds of real estate are required by law to be recorded and indexed.

§ 91. All the provisions of law relating to the redemption of lands sold under executions, and which are not inconsistent with the provisions of this act, shall apply to the sales and redemption of lands, which may be sold for taxes or assessments, as provided in this act; and all payments which may be required to entitle other persons to redeem, according to the provisions of said law, may be made to the city treasurer. **[Amended by L. 1922, Ch. 613]**

§ 92. In case any person having a mortgage, judgment, decree or claim, on lands about to be sold for any tax or assessment shall stop such sale by paying the amount of the tax or assessment, fees and interest, as herein provided, then, and in that event, the person making such payment shall have a further lien on said lands for the amount so paid by him, which shall be added to his said mortgage, judgment, decree or claim, and become a part thereof; and such further lien shall be of even date with said mortgage, judgment, decree or claim.

§ 93. Conveyance of title.

1. At least one hundred twenty (120) days prior to the expiration of the redemption period, all owners of property upon which there are unpaid taxes, assessments or liens shall be given at least thirty (30) days notice by certified mail, return receipt requested, and by regular mail, that the City will conduct a title search of such property which will result in an additional charge of \$250.00 or more being added to the amount due.

2. No owner whose deed, or in case he or she holds such property by descent or device, the deed of his or her ancestor or devisor, shall have been duly recorded in the office of the clerk of the County of Orange, before the sale of any lien for any tax or assessment, and no mortgagee, lessee or assignee of either, whose mortgage, lease or assignment shall have been so recorded, shall be divested of all rights in such property, by reason of an unpaid lien or tax sale conducted pursuant to this title, unless sixty (60) days notice in writing of such conveyance, shall have

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been given by the City or the purchaser of the lien or those claiming under him or her, to such owner, mortgagee, lessee or assignee, by depositing such notice in the post office of said City, by certified mail return receipt requested and by regular mail, directed to the owner, mortgagee, or lessee or assignee at his or her place of residence as stated in the deed, lease, mortgage or assignment of such mortgage or lease, and, in the case of an owner, directed to any address of such owner on file in the Office of the Assessor.

3. In addition to the written notice provided for herein, any property to be conveyed pursuant to this title must be posted with notice of such conveyance no later than thirty (30) days prior to such conveyance.

4. In the event that notice as required herein is not sent to any of the persons herein mentioned entitled to such notice, in such event the time within which any such person or those claiming under him or her may redeem such property is extended to within three (3) years from the lien date. In case of failure to redeem within said three years from the lien date, the sale and conveyance thereof shall become absolute and all persons barred forever.

5. Upon expiration of the redemption period and completion of the procedures required herein, and upon execution by the City of a deed to a tax-delinquent parcel to the City or to a qualifying purchaser of an unpaid tax lien, the City or qualified purchaser shall be seized of an estate in fee simple absolute in such parcel and all persons, including the State, infants, incompetents, absentees and non-residents, except as specifically exempted by law, who may otherwise have had any right, title, interest, claim, lien, or equity of redemption in or upon such parcel shall be barred and forever foreclosed of any such right, title, interest, claim, lien or equity of redemption, and the City or qualified purchaser may hold such parcel for itself or sell or release such parcel as provided by law.

6. Sale to previous owner. After conveyance of title as provided herein, the City or qualified purchaser may convey the subject parcel to the previous owner. Such a conveyance shall restore all parties, including owners, mortgagees and any and all lienors, receivers and administrators and encumbrancers, to the status they held at the time the City or qualified purchaser acquired title to the subject parcel, as if the title had never been conveyed, and shall render the subject parcel liable for all taxes, deficiencies, management fees and liens, penalties, interest, and other charges which had accrued prior to the conveyance of title and which continued to accrue after the conveyance of title.

7. Conveyance prohibited to certain City officials, officers and employees. No City of Middletown elected official, nor any officer or employee in the Offices of the Assessor, Corporation Counsel, or Treasurer may bid for or acquire or purchase any parcel of real property which is offered for sale by the City in any manner as a result of the tax delinquency of such parcel. This prohibition shall include a prohibition against such City officials, officers or employees bidding upon or acquiring or purchasing such properties directly or through an agent, representative, attorney or other third party, including but not limited to a spouse or child. It shall be presumptive proof of a violation of this Section if such City official, officer or employee shall have acquired any interest whatsoever, including but not limited to the holding of a mortgage, lien or other financial interest, in any such property, howsoever acquired, either directly or through any third parties, within two (2) years of the date upon which such property was sold or conveyed by the City of Middletown. This provision may be enforced by

disciplinary action or by an appropriate action at law or in equity in the Supreme Court of the State of New York.

[§ 93 amended by L.L. No. 3-1945; L.L. No. 1-2008³²]

§ 94. It shall be the duty of the person serving such notice and posting such property, or causing the same to be served and posted, to file and record a copy of the notice served, together with the affidavit of the person making such service and posting, who shall be at least eighteen years of age, in the office of the Corporation Counsel. **[Amended by L. 1922, Ch. 613; L.L. No. 1-2008³³]**

§ 95. The city of Middletown may become the purchaser at any sale which may be made under the provisions of this act, and in case the said city shall be vested with the same rights as any other purchaser, but in no case shall the city at such sale bid a sum or become the purchaser for a greater amount than sufficient to pay the tax or assessment, with interest, including the costs and expenses of such sales, and in all cases of such sales the said city shall bid a sum sufficient to pay such tax or assessment, interest, cost and expenses. The mayor or other person designated by the common council shall attend all such sales and make such bid. Any sale made in violation of this provision shall be void. **[Amended by L. 1922, Ch. 613]**

§ 96. The term "mortgagee," as used in this act shall be construed to include assignees or mortgagees whose assignment shall be duly recorded, and personal representatives, and the term "purchaser" shall be construed to include assignees and real and personal representatives, as the case may be.

§ 97. [Repealed by L. 1922, Ch. 613]

§ 98. All property exempt from taxation by law, and all property belonging to the city, shall be exempt from state, county, city, library and business improvement district taxes. **[Amended by L. 1922, Ch. 613; L.L. No. 1-2008³⁴]**

§ 99. Whenever any person or corporation shall refuse or neglect to pay any tax or assessment duly assessed, according to any of the provisions of this act, against any such person or corporation, the same may be collected by action in the name of the city, against such person or

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corporation, but such action shall not operate to release any lien upon property for such tax or assessment, until the judgment rendered in such suit shall have been fully satisfied. **[Amended by L. 1922, Ch. 613]**

§ 100. Whenever any real estate in said city shall be owned by two or more persons jointly, or as tenants in common, a notice served on one of such persons shall be sufficient notice to all for any purpose requiring a notice under this act.

§ 101. The said council shall not create any pecuniary obligation whatever on the part of the city which shall not be payable within the year, and which cannot be discharged from the income of the same year, except as otherwise provided by the local finance law and except as herein otherwise specifically provided. **[Amended by L. 1922, Ch. 613; L. 1943, Ch. 710]**

§ 102. [Repealed by L. 1922, Ch. 613]

§ 103. Whenever any tax or assessment which may be imposed on any real estate owned by two or more tenants in common, shall be paid by one or more of such owners, the person or persons making such payment shall have a right of action against the remaining owner or owners to recover his, her or their proper share of such payment.

§ 104. Whenever any assessment made under the provisions of this act shall be set aside or be decided by any court having jurisdiction thereof, to have been improperly or illegally made, or whenever it shall be ascertained that the proceedings under which said assessment may be made, shall have been so far irregular and erroneous as to make the collection of such assessment illegal, then, and in that case, a reassessment may be made in the manner prescribed by this act, with the same force and effect as if it had been an original assessment.

§ 105. Every tax deed executed, and delivered by the City of Middletown pursuant to the Charter provisions of the City of Middletown, or any tax deed executed and delivered pursuant to any general or special law providing for the foreclosure of a tax lien by action in rem, shall be presumptive evidence that the action and all proceedings therein and all proceedings prior thereto from and including the assessment of the lands affected and all notices required by law were regular and in accordance with all provisions of law relating thereto. After two years from the date of the recording of such deed the presumption shall be conclusive, unless at the time this section takes effect, the two year period since the recording of the deed has expired or less than six months of such period of two years remains unexpired, in which case the presumption shall become conclusive six months after this section takes effect. No action to set aside such deed may be maintained unless the action is commenced and a note of pendency of the action if filed in the office of the Orange County Clerk prior to the time that the presumption becomes conclusive as hereinabove provided. **[Added by L.L. No. 1-1955]**

TITLE VI
**Streets and Sewers and the Improvement Thereof, Nuisances
and the Abatement Thereof**

§ 106. The common council shall have power to determine the existence and direct the removal of a public nuisance, in any part of the city; and if the same be not removed in such time as the council shall direct, to cause the same to be removed at the expense of the city, and to cause buildings, trees and other encumbrances encroaching upon the streets or avenues to be removed; to prevent the erection or construction of any steps, platform, bay window, cellar door, area, descent into a cellar or basement, sign or any post or erection, or any projection from any building or otherwise, in, over or upon any street, or avenue in said city, and to cause the same to be removed.

Whenever any such nuisance, encroachment or obstruction shall have been removed at the expense of the city, such expense shall be ascertained by the common council and entered in its minutes, after a hearing as provided in section one hundred and eight of this act, and together with the expenses of collection, shall be a lien upon the said lot from the time the expenses shall be incurred, and may be collected by action, in the name of the city, against the owner, and after demand of payment from the owner, and his neglect or refusal to pay such expense, by sale of the lot, in the manner hereinbefore provided for the sale of property, for taxes imposed for city purposes.

[§ 106 added by L. 1922, Ch. 613]

§ 107. The said common council shall have the power, and it shall be their duty, upon their own motion, or upon application as hereinafter provided:

- a. To lay out, open, make, amend, repair, alter, widen, straighten, extend, contract or discontinue streets, lanes, alleys, highways, walks, public squares, bridges, drains, culverts and sewers in said city. But no street, lane or highway in said city shall be discontinued without the written consent of all parties owning lands thereon.
- b. To cause any street or streets, section or sections of any street or streets in said city, to be graded, leveled and paved and repaved, and sewers to be built or constructed, and fix or regulate the grade line of streets and sidewalks; and to cause curbs to be set and sags to be made, paved and guttered of such material as the common council may direct. And in the order directing the construction of a sewer or sewers, or such grading, leveling or paving (not including paving or repaving of gutters) they may, in their discretion, provide that a portion of the expense of such improvement, not exceeding one-half thereof, shall be paid out of the city treasury. But after any street, or section of a street, shall have been once graded, or be in process of grading, according to grade line fixed by order of the common council, the grade of the same street or section shall not be changed, except upon the written application of the persons owning a majority part of the property adjoining the same, and when a street has been once permanently improved for which any portion has been paid by the land owners thereon, no part of repaving, grading or improving the same a

second or subsequent time shall be charged against the land owners on said street except their proportionate share of the general tax therefor.

- c. To keep the streets clean and in good order and to pass ordinances requiring the same to be kept clean and in good order, and free from encroachment and injury, and to require the owners and occupants of houses, buildings or lots, to clean the snow and ice from the sidewalks and out of the gutters opposite their premises.
- d. To require the owners of buildings and lots, on public streets, to make and maintain sidewalks opposite their premises and to prescribe and direct the materials out of which, and the manner in which such sidewalks shall be made, and the time within which they shall be completed, and to regulate the grade, width, shape and construction thereof.
- e. To lay out, improve and ornament public parks and pleasure grounds, and to pass ordinances and regulations concerning their preservation and use.
- f. To prevent and summarily remove all obstructions and encroachments in or upon the streets, sidewalks, highways, bridges and public grounds in said city.
- g. The said Common Council shall have exclusive control of all the storm and sanitary sewers in said city, and it shall not be lawful for any person to interfere with, enter or connect with any of the storm and sanitary sewers in said city without having first obtained permission so to do from the Commissioner of Public Works and all such connections shall be made under the supervision of the Commissioner of Public Works and the said Common Council is hereby empowered to compel any and all owners or occupants of lands on the line of any such storm and sanitary sewers, to enter and connect the drains from such lands into and with such storm and sanitary sewers, whenever the said Common Council shall deem it necessary for the public good, or as a sanitary measure, so to do; and the said Common Council is hereby authorized and empowered to enforce the observance of the provisions of this section, by ordinances imposing suitable penalties for the violation thereof. And the Common Council shall have power to enter upon any land in said city, for the purpose of making surveys, and to construct upon the same any storm and sanitary sewers deemed by them necessary and proper to be constructed, and to acquire the title to any lands or easements therein, for the purposes of such storm and sanitary sewer or storm and sanitary sewers.

[§ 107 amended by L. 1910, Ch. 302; L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 1-1964]

§ 108. Whenever the common council shall order a sidewalk to be made, altered or repaired, or curbs to be set, they shall give notice to the owner of the premises along or in front of which such sidewalk is ordered to be made, altered or repaired, or such curb to be set, by causing a copy of such order to be delivered to him personally, and left with him; or, in case of his absence from his residence by leaving such copy with a person of suitable age and discretion at his residence; or, in case such notice cannot be served as aforesaid, or such owner is not a residence of said city, or is unknown, then such notice shall be served either by mailing the same to his last known address or by publishing the same once a week for two weeks in a newspaper printed and published in said city. The order directing such sidewalk to be made,

altered or repaired, or such curb to be set, shall direct the materials to be used and the manner in which the work is required to be done, and the time within which it is required to be completed. If the owner shall not make, alter or repair such sidewalk, or set such curb, in the manner and within the time specified in the order, or such further time as the common council may, by resolution, allow, the common council shall cause such sidewalk to be made, altered or repaired, or such curb to be set as specified in said order, and all expenses incurred in such construction, alteration or repairs shall be ascertained by the common council and entered in their minutes, and, together with the costs of collecting the same, and interest thereon at the rate of six per centum per annum, shall be a lien on the lot in front of which said walk shall have been made, altered or repaired, or such curb set, and a charge against the owner thereof, but the common council, before entering such cost upon their minutes, shall give notice to the owner or agent of such premises that an opportunity will be given such owner or agent to be heard regarding such improvement before said common council at least twenty days previous to the time of entering such expense upon their minutes. Such notice may be served or given in the same manner, as provided in this section for the service of the order requiring such work to be done, and when such charge is so ascertained and entered upon said minutes the same may be collected by action in the name of the city, or by sale of the premises in the manner provided by the provisions of the fifth title of chapter five hundred and seventy-two of the laws of nineteen hundred and two and the acts amendatory thereof for the sale of property for taxes imposed for city purposes. The expense of making, paving, repairing gutters and sags therein shall be wholly paid from the city treasury. **[Amended by L. 1916, Ch. 200]**

§ 109. When the council shall, on its own motion, determine that it will be advisable to lay out, open, alter, widen, extend, contract, level, pave, curb, gutter or grade any street, or construct, flag or widen any sidewalk, or construct or rebuild any sewer, aqueduct or bridge, except as specified in section one hundred and ten of this act, or establish any public park, market or place, or install any approved or ornamental system of lighting as a local improvement or whenever persons owning at least one-third of the number of feet on the line of any such proposed improvement shall, by petition in writing, request the council to order the same, it shall cause a tentative estimate of the total expense to be made, and a map to be made by the city engineer showing its estimate of the probable area of assessment for the benefits of such proposed improvement, together with all other necessary maps, profiles or drawings, which maps and estimates shall be filed in the office of the clerk of the council at least five days before the day set for the hearing. It shall fix a time for a public hearing at which it will consider the advisability of said improvement, and hear all reasons for or against the same and direct notice to be published thereof.

The clerk of the council shall publish, twice in each week for two weeks previous to the said hearing, a notice which shall contain a description of the proposed improvement, the estimated expense thereof, and shall state that a map, showing the probable area of local assessment will be prepared and filed with him at least five days before said hearing for public inspection.

The council shall, at the time and place specified, hear all persons interested for or against the proposed improvement as to any questions involved therein, and within two months after said hearing the council shall finally determine such proposition; and at any time before the completion of such improvement said council shall have the power to make any changes advantageous to the taxpayers of the city.

[§ 109 amended by L. 1922, Ch. 613]

§ 110. [Amended by L. 1922, Ch. 613; L.L. No. 1-1927; repealed by L.L. No. 1-2009]

§ 111. [Repealed by L. 1922, Ch. 613]

§ 112. After any street or section thereof shall have been once graded by direction of the council, the grade shall not be changed, except upon written application of persons owning a majority in frontage of the property adjoining the same; when a street has been once permanently improved, any portion of the expense of which improvement has been paid by the land owners thereof, no part of the expense of repaving, grading or improving the same at a subsequent time shall be charged against an owner on said street excepting his proportionate share of the general tax therefor. **[Amended by L. 1922, Ch. 613]**

§ 113. [Repealed by L. 1922, Ch. 613]

§ 114. Whenever any of the foregoing improvements relating to streets, et cetera, shall have been made, the council shall ascertain the total expense thereof, including the estimated interest which may accrue on any certificates of indebtedness issued or to be issued therefor and the sums paid or agreed to be paid for any interest in land that may be necessary and except in the case of street paving, may fix and determine an amount to be paid by the city on account thereof which shall not exceed fifty per centum of the total expense; in the case of the expense of street paving the council shall ascertain the total expense thereof, including the sums or items aforesaid, and shall deduct from said total a sum equal to the actual cost of paving any intersection or intersections, twenty per cent (20%) of the balance thus determined shall be assessed against the properties deemed to be benefited as hereinafter provided and the remaining eighty per cent (80%) together with the total expense of paving such intersection or intersections, shall be assessed upon the city; and the council shall fix a limit or district of assessment beyond which the assessments therefor shall not be extended; it shall enter in the minutes the amount of such expense, and a description of such limit or district and shall then cause a warrant to be issued to the commissioner of assessment and taxation directing him to assess the said amounts, less the part, if any, which it may have ordered to be paid by the city at large upon the real estate benefited by the said improvement. Said commissioner shall thereupon assess the amount specified in said warrant as therein directed and make a return to the council under his signature wherein he shall briefly describe by street and number as shown

on the assessment map each parcel of real estate on and in respect of which any assessment is made, and the amount assessed upon the same. The clerk shall thereupon cause a notice to be published once a week for two weeks or served personally upon all parties interested, that such assessment has been made and filed, and that the council, at a regular meeting named in said notice, not less than fourteen days after the first publication thereof, will hear any objection which may be made to any assessment, and that in the meantime the report may be examined without expense by any person. At the time specified the council shall hear any objection made to said assessment, and shall review the same, and may adjourn the hearing from time to time, and alter, correct, modify or amend any assessment and confirm the same as so corrected. **[Amended by L. 1922, Ch. 613; L. L. No. 1-1929; L. L. No. 1-1938]**

114-a. Whenever a local improvement of nature specified in section one hundred nine of the charter shall be undertaken through or by authority of the Civil Works Administration of the Federal Government, or the Works Division of the Federal Emergency Relief Administration, or under the authority of the Temporary Emergency Relief Act of the state of New York, or under any other relief authority of the local, state and/or federal government, that portion of the cost which the city bears, whether for materials and labor, or both, may be assessed against the property benefited upon order of the common council. If the council determines that the city's portion of the cost of a proposed local improvement shall be assessed against the property benefited, it shall so order by resolution and cause a tentative estimate to be made setting forth the total expense and cost of the improvement as estimated and setting forth an estimate of the city's portion of such cost, and a map to be made showing its estimate of the probable area of assessment for the benefit of such proposed improvement, together with all other necessary maps, profiles or drawings, which maps and estimates shall be filed in the office of the clerk of the council at least five days before the day set for the hearing, shall fix the time for public hearing at which it will consider the advisability of the improvement, and hear all reasons for or against the same and direct notice to be published thereof, such notice to be published in the manner and to contain the information as provided in section one hundred nine. In addition the notice shall contain the estimated portion of the city's cost of the improvement. The proceedings upon the public hearing and in the matter of the assessment and collection of the city's portion of the cost of the improvement shall be the same as is specified in connection with the hearings and assessments for local improvements generally, with the exception that the council shall, in connection with an assessment hereunder, ascertain the total of the city's portion of the cost, including the estimated interest which may accrue on any certificate of indebtedness issued or to be issued therefor, and the sums paid or agreed to be paid for any interest in land that may be necessary, and shall enter in its minutes the amount of such cost to the city. The council shall then direct the assessment and assess such cost against the limit or district benefited in the manner provided by this charter in connection with assessments for local improvements generally. **[Added by L. L. No. 1-1935]**

§ 115. [Repealed by L. 1922, Ch. 613]

§ 116. [Repealed by L. 1922, Ch. 613]

§ 117.

- a. The Council, upon confirming any of the assessments referred to in this article, may provide in the resolution confirming the same that said assessments, or any of them, may be paid in not more than twelve substantially equal annual installments, to be collected in the manner provided in this act for the collection of taxes for city purposes, except as hereinafter specified. When such assessments are paid by installments, the first installment shall be due and payable within thirty days after the confirmation of such assessments by the Common Council, which date of confirmation shall become the anniversary date of the payment of the remaining installments in succeeding years. Interest at the rate of six per centum per year on all unpaid principal balances shall be paid annually on such anniversary dates. It is provided, however, that the owner of any premises assessed who may have chosen to pay his assessment by installments may pay any or all installments remaining unpaid with accrued interest thereon at any time prior to the date for payment of the final installment, but in the event the owner of any premises shall become delinquent in payment of his assessment or any installment thereof, the principal balance together with interest, shall thereupon immediately become due and payable and may be collected by the sale of such land or premises.
- b. There is hereby established for the City a special fund which shall be operated under the supervision and control of the City Treasurer into which the proceeds of the sale of bonds and the assessments collected shall be paid for any physical public betterments or improvements financed through such fund as hereinafter provided. The Common Council may determine and require, by resolution, that the financing of the construction of any physical public betterments or improvements, heretofore or hereafter authorized, whether or not including the acquisition of land or rights in land therefor, the cost of which is required by ordinance, resolution or local law to be paid completely by assessments upon the property benefited or partially by assessments upon the property benefited and the balance by assessments upon the City, shall be through the aforesaid special fund, into which the proceeds of the sale of bonds and the assessments collected are paid and out of which the cost of any such betterments or improvements is paid and such bonds are redeemed, whether or not interest thereon is paid from such fund. Notwithstanding any other provisions of this charter, the Common Council, upon the completion of any such physical public betterments or improvements or at any time prior thereto, may determine to issue, pursuant to the local finance law, the obligations of said City in such an amount as said Council may estimate to be sufficient to pay the entire cost of any such physical public betterments or improvements.

[§ 117 amended by L. 1922, Ch. 613, § 1; L.L. No. 2-1929; L.L. No. 3-1933; L.L. No. 3-1940; L. 1943, Ch. 710, § 498; L. 1943, Ch. 712, § 177.00, Schedule A; L. 1945, Ch. 339, § 1; L.L. No. 5-1954; L.L. No. 4-1968; L.L. No. 3-1969]

§ 118. [Repealed by L. 1922, Ch. 613]

§ 119. [Repealed by L.L. No. 1-1933]

§ 120. [Repealed by L. 1922, Ch. 613]

§ 121. All authority, rights, powers and duties given to or imposed upon the trustees of the said village of Middletown, or of the president of the said trustees, or the assessors, clerk, treasurer or collector of said village, and all rights-of-way and property, real and personal, heretofore acquired and now owned, enjoyed or possessed by the village or city of Middletown, and by any law of this state, which shall have taken effect prior to the time when this act shall take effect, concerning or in relation to the construction of a sewer or sewers in said village, or city, and acquiring the property necessary to be taken for that purpose, and the assessment and collection of the expenses thereof, and the management and keeping in repair of said sewer or sewers when constructed, and said property and streams where taken for the purpose of drainage and sewerage, are hereby vested, respectively, in the city of Middletown and in the mayor, common council, commissioner of assessment and taxation, clerk, treasurer and collector authorized to be elected or appointed under this act, so that the powers, authority and rights given in said laws, or acts to the trustees of the village or city of Middletown shall be exercised by the common council of the city of Middletown, and the powers given in the said acts or laws to the president of said trustees, shall be exercised by the mayor of said city; and all powers given in and by said acts or laws to the assessors, clerk, treasurer, and collector of said village, respectively, shall be exercised by said officers of the said city of Middletown. All property, real and personal, and rights heretofore acquired and now held, owned and enjoyed by the village or city of Middletown, its officers, agents, employees or servants, pursuant to chapter two hundred and two of the laws of eighteen hundred and seventy-nine, entitled "An act to amend chapter forty-six of the laws of eighteen hundred and seventy-two, entitled 'An act to amend an act, entitled An act to amend and consolidate the charter of the village of Middletown,' passed March thirty-one, eighteen hundred and sixty-six," passed April nineteen, eighteen hundred and seventy-nine, are hereby transferred to and vested in the city of Middletown, its common council, officers, agents, servants and employees, and no right, property, privilege or power acquired by said above mentioned act, or duly imposed, shall in any manner be affected by the passage of this act. **[Amended by L. 1911, Ch. 699]**

§ 122. To the end that the said city of Middletown may be provided with and have sufficient and proper drainage and sewerage, the said common council is hereby authorized and empowered to agree for and to purchase and take conveyances for, in the name of said city, any real estate and right-of-way, over any real estate, and the right to use any stream running through said city which may be a tributary of the stream heretofore taken, and now used and possessed by said city, known as Monhagen creek, or any part of such tributaries, for the purposes of such drainage and sewerage to any suitable and proper place and for sewerage and garbage disposal plants and works; and in case said common council does not agree for the purchase of such real estate, or rights-of-way, or rights to use such streams for the purposes aforesaid, from any of the owners of such real estate, or of the lands through or along which said streams run, the said common council may acquire the title and right to the same or any part thereof, for the purposes aforesaid, as provided in this act. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 123. In case said common council shall not agree with any owner or owners, respecting any lands or rights which they may desire to acquire for the purposes aforesaid, or with the owner or owners of any lands through or along which the aforesaid streams run, for the right to use the same for such purposes, then said common council shall cause a survey and map to be made of the lands intended to be taken or entered upon for said purposes, including the lands through or along which said streams pass, by which the land of each owner or occupant thereof intended to be taken or used, or through or along which said streams pass, shall be properly designated, which map shall be duly signed by the surveyor making the same and by the mayor of said city, and shall thereupon be duly filed in the office of the clerk of Orange county. Any of the members of said common council, and any of the officers, agents and employees or servants thereof, may enter upon any lands for the purpose of making such examination as may be proper, with a view to such drainage and sewerage, and making said survey and map, doing no unnecessary damage, however, thereto. In case of such failure to agree or in case such agreement cannot be made by reason of the disability of any of the owners of said property, the common council may direct that such property be acquired by proceedings instituted for the condemnation thereof in the manner provided by the condemnation law for the condemnation of real property, and the provisions of this act relative to title pending condemnation shall apply. **[Amended by L. 1922, Ch. 613]**

§ 124. **[Repealed by L. 1922, Ch. 613]**

§ 125. Any sum of money necessary to pay for said lands, rights or awards, and the cost of said improvement, including the necessary expenses incurred by said common council in connection therewith, shall be raised by tax, to be assessed upon all the real and personal property in said city, according to the valuation of the city assessment-roll of the current year, which said tax shall be assessed by the said common council at some meeting thereof. The said tax or assessment shall be raised and collected in the same manner that special taxes are directed to be raised and collected under the provisions of title five of this act, and as if the same had been voted as a special tax by the electors of said city, at an election held pursuant to this act; and the provisions of the sections of said title five relating to taxes or assessments, shall be equally applicable to the tax which said common council are herein authorized to assess at some meeting thereof as aforesaid. **[Amended by L. 1922, Ch. 613]**

§ 126. **[Repealed by L. 1922, Ch. 613]**

TITLE VII
Police Department

§ 127. Police force of city in general. The police force of the City of Middletown shall be supervised by a Board of Police Commissioners of five members to be constituted and hold office as hereinafter provided and to have the powers and duties as hereinafter provided. Such police force of the City of Middletown shall consist of such number of police officers as may be deemed necessary and proper by the said board of Police Commissioners, and in addition such special police officers and fire police as may be appointed by such Board of Police Commissioners in the manner hereinafter mentioned. The salaries and compensation of all such police officers shall be fixed by the Board of Estimate and Apportionment of the City, but no such salaries or compensation shall be effective until approved by the Common Council; provided, however, that the salaries and compensation to be received by members of the Police Department of the positions set forth in the schedule thereof in Title IV, Section 64, as amended by Section 1 of this local law, during the fiscal year beginning December 1, 1957, and during subsequent fiscal year, shall not be less than the respective amounts with increments as set forth in the schedule thereof in Title IV, Section 64, as amended by Section 1 of this local law; provided, however, that the fire police shall serve without compensation. [Added by L. 1942, Ch. 339; amended by L.L. No. 2-1948; L.L. No. 3-1948; L.L. No. 1-1954; L.L. No. 2-1957, § 4]

§ 128. Appointment of Board of Police Commissioners; Secretary and Treasurer of Board. There shall be and hereby is established in the City of Middletown, a Board of Police Commissioners to consist of five members and to have the jurisdiction, powers and duties in this act specifically provided for. The Mayor of the City, or his designee, shall be one member of the Board of Police Commissioners and President of said Board. The Mayor's designee and other four members of the Board shall be appointed by the Mayor and confirmed by the Common Council as hereinafter provided. Not more than two members of said Board, in addition to the Mayor or his designee, shall be members of the same political party.

Each member of the Board of Police Commissioners shall serve a term of four years, such terms to commence on the first day of each of four successive calendar years, so that such terms are staggered and that one term will begin in each calendar year. The Mayor or his designee shall also serve a four-year term, or until the termination of the Mayor's term in office, whichever occurs first; said term to commence on the confirmation of the Common Council. Unless the Mayor himself is a member, all appointments of said police commissioners shall be submitted to the Common Council for confirmation and upon confirmation by a majority of the Council, and taking the Constitutional oath of office, the person or persons appointed shall take and hold office as member or members of the Board of Police Commissioners. If an appointment made by the Mayor shall not be confirmed by the Council, the Mayor at the next regular meeting of the Council thereafter shall submit another name, and this course shall be taken until an appointment shall be made and confirmed. In the event of the death or resignation of a member, the vacancy occurring in the office shall be filled by appointment by the Mayor, to be confirmed by the Common Council aforesaid, said appointment to be for the unexpired term of office of the member who has died or resigned.

The members of the Board of Police Commissioners shall serve without compensation.

The Chief of Police of this City shall be the Secretary and Treasurer of the Board. As such, he shall attend all meetings of the Board and take and transcribe the minutes of the Board and keep a permanent record of the same in his office. He shall also keep any and all funds of the Board as a separate fund. On any hearing, however, affecting the Chief of Police personally, the Board may appoint a temporary secretary to take and transcribe its minutes.

[§ 128 added by L. 1942, Ch. 339; amended by L.L. No. 1-1998; L.L. No. 4-2003]

§ 129. Powers and duties of Board of Police Commissioners. The Board of Police Commissioners, composed of the Mayor or his designee, and four other members to be appointed by the Mayor and confirmed by the Common Council as hereinbefore provided, shall have and exercise the following powers and duties:

1. To appoint all police officers of the city. The said board shall have the power and it shall be its duty to appoint a person as police officer to fill any vacancy in the police force caused by death, retirement, resignation or lawful removal of a police officer now in office. Also the said board shall have the power and it shall be its duty to appoint such additional police officers for the city as it may deem necessary and proper. The appointment of full-time police officers shall be made pursuant to the provisions of the Civil Service Law of the State of New York and of the rules of the Civil Service Commission of this city, and all appointments of full-time police officers shall be made from an eligible list furnished pursuant to such law and such rules. The appointment of part-time police officers for limited duty and specific purposes shall be based on qualifications and criteria to be determined by the Board of Police Commissioners in conjunction with rules of the Civil Service Commission, which may include hiring as part-time police officers individuals who already have received training through an accredited or certified police academy or who have retired from full-time police officer positions and are immediately available for such part-time service. Appointments of part-time police officers, however, do not have to be made (and are not expected to be made) from an eligible list furnished pursuant to the Civil Service Law and rules of the Civil Service Commission. **[Amended by L.L. No. 2-2017]**
2. To appoint a person who shall be the chief of police of said city, to fill vacancies in office of lieutenant of police, and to appoint not exceeding four sergeants of police. The said board, following its organization after the taking effect of this act, shall appoint a chief of police and not exceeding four sergeants of police. The lieutenants of police now in office, and the chief of police, lieutenants of police and sergeants of police appointed hereunder, and their successors, shall hold office until death, retirement or until removal by the board on charges. The appointment of the chief of police shall be made following such examination and under such regulations as the board may prescribe. Lieutenants of police and sergeants of police shall be selected and appointed from persons already serving as police officers of such city, and all appointments of lieutenants and sergeants shall be made pursuant to the provisions of the civil service law of the state of New York and of the rules of the civil service commission of this city, and from an eligible list furnished pursuant to such law and such rules.

3. To appoint special police officers when the mayor of said city shall certify to said board in writing that the public interest requires such officers. The appointment of special police officers shall be for such period as the mayor shall certify to be necessary, not exceeding two months under any one appointment. Special officers, when appointed, shall forthwith take the constitutional oath of office and shall thereupon become vested with all the powers and shall discharge all the duties of peace officers and of members of the police force of this city.

4. To appoint such number of persons to be fire police as may be certified by the mayor in writing to the board of police commissioners to be necessary and proper. The persons appointed as fire police shall hold office for one year from time of appointment and upon filing the oath of office, shall thereupon become vested with all the powers and shall discharge all the duties of peace officers. Any person appointed and qualifying as a fire police as herein provided shall be accorded the same rights and privileges if injured or killed while in the actual performance of his duties as such as are accorded active volunteer firemen by the general municipal law of the state of New York, and any sums paid as herein provided shall be a city charge and shall be audited and paid in the same manner as other city charges.
5. To provide by rule or regulation as to the qualifications of a person to be a police officer of said city, or to be chief of police, a lieutenant of police or a sergeant of police of said city; or to be a special police officer or member of the fire police of said city; provided, however, that no person not theretofore a police officer of the city shall receive an original appointment as police officer unless he is over the age of twenty-one years and under the age of thirty-five years; and no person shall be appointed to membership in the police force or continue to hold membership therein, who is not a citizen of the United States or who has been convicted of a felony or who cannot understandingly read or write the English language or who shall not have resided in this state during one year next preceding his appointment; and no person shall continue to hold his position as police officer or as a member of the police force in any capacity after he has reached the age of sixty-five years.
6. In the event of a vacancy in the office of chief of police, lieutenant of police or sergeant of police, or in the event of the temporary absence or disability of the chief of police, lieutenant of police or sergeant of police, the board or a majority of the members thereof may designate any officer of the force to temporarily execute and perform the duties of chief of police, lieutenant of police or sergeant of police as the case may be.
7. To enact, modify and repeal orders, rules and regulations for the government and discipline of the police department; to define the duties of all police officers and of the chief of police, the lieutenants of police and the sergeants of police; and to define the powers and duties of special police officers and of members of the fire police.
8. To punish, in the manner hereinafter provided, any police officer of the City, the Chief of Police, or any lieutenant or sergeant of police for neglect of duty or violation of any of the rules or regulations established by the Board of Police Commissioners or Chief of Police, or for disobedience of orders, insubordination, misconduct, absence without leave or any conduct deemed by the Board to be unbecoming an officer, or upon conviction of the officer of any criminal offense. Before the Board shall render any penalty affecting any officer, the Board or a Hearing Officer designated by the Board, shall hold a hearing in the matter and the officer shall have at least three days' notice in writing of the charge against him or her and of the time and place of such hearing. The officer shall have the right to be present at such hearing and be heard in person and by counsel and give and furnish evidence in his or her defense. The hearing may be public, or may be held privately at the discretion of the Board. The Board may appoint a Hearing Officer from its own membership or may select any qualified individual. If a Hearing Officer conducts the hearing, the Hearing Officer shall make, after the close of the hearing, a written finding of

fact and a recommendation to the Board as to guilt and penalty. The final decision as to guilt and penalty shall rest in the discretion of the Board. If the accused officer shall be found guilty by the Board of the charge made against him or her, the Board may order his/her suspension from duty and from pay for a period not exceeding sixty days, may reduce his/her grade, may impose a fine upon him/her not exceeding one hundred dollars or may remove and dismiss him/her from office altogether, or subject him/her to any other discipline prescribed by rules and regulations established by the Board not inconsistent with the laws of the State. The decision of the Board of Police Commissioners shall be final. **[Amended by L.L. No. 4-2015]**

9. The Board or appointed Hearing Officer shall have power to issue subpoenas attested in the name of the Board, to compel the attendance of witnesses upon any proceedings authorized by its rules and regulations and in all matters pertaining to the police force. Each member of the Board and the Chief of Police and any Hearing Officer appointed by the Board is hereby authorized and empowered to administer affirmations and oaths to any person summoned and appearing in any matter or proceeding authorized as aforesaid and in all matters pertaining to the department, or the duties of any officer, or to take any depositions necessary to be made under the orders, rules and regulations of the Board. Any willful false swearing by any witness to any material fact in any proceeding before the Board or any Hearing Officer appointed by the Board shall be deemed perjury, and punished in the same manner now prescribed by law for such offense. **[Amended by L.L. No. 4-2015]**
10. To perform such other powers and duties incident to the police department of the city of Middletown and the members of the police force of such city, and incident to the police government of such city, as the common council may lawfully prescribe.
11. To have supervision over the city jail and the equipment thereof, and to provide rules and regulations concerning its use and care.
12. To regulate its organization as a board and to establish the times and places for the holding of meetings, and in general to prescribe, amend, modify and repeal rules and regulations concerning such organization, the conduct of its meeting, and the carrying out of the duties and powers vested in it.
13. A majority of the board of police commissioners shall constitute a quorum for the transaction of business, provided, however, that no person shall be appointed to be police officer, or to be chief of police, lieutenant of police or sergeant of police, except upon the written appointment of a majority of such board, nor shall any officer be punished except upon affirmative vote of a majority of the board.

[§ 129 added by L. 1942, Ch. 339; amended by L.L. No. 1-1954; L.L. No. 2-1948; L.L. No. 1-1998]

§ 130. Duties and powers of Chief of Police. The chief of police of this city shall be the executive head of the police force of this city and it shall be his duty to enforce all ordinances and regulations enacted by the common council, except as otherwise provided in this chapter. It shall also be his duty to enforce all rules and regulations established by the board of police

commissioners. He shall obey and enforce all lawful orders of the board of health of this city. He shall perform such further duties and have such powers as may be prescribed by the board of police commissioners. **[Added by L. 1942, Ch. 339]**

§ 131. Duties and powers of police officers generally. Police officers of the city, including the chief of police, lieutenants of police and sergeants of police shall possess all the powers and perform all the duties of peace officers and constables in criminal matters under the general

laws of the state and shall perform all acts in relation to criminal offenses which peace officers or constables are authorized to perform. They shall have power and it shall be their duty to arrest any person by them found violating any of the penal laws of the state or penal ordinances of the city, and to take such person before the proper magistrate to be dealt with in the same manner as if such person had been arrested upon a warrant theretofore duly issued by a magistrate. Any warrant of arrest or search warrant lawfully issued by any magistrate of the state may be executed by them in any part of the state according to the tenor and authority thereof.

All criminal processes for any offense committed within the city, and all processes to recover or to enforce any penalty for the violation of any city ordinance issued out of the city court of said city or by the judge of such court; and every process, subpoena or bench warrant issued by the district attorney of Orange county relating to any offense within the city, and every process, subpoena or warrant issued by any coroner of Orange county in any inquest held in the city, relative to the death of any person in the city, may be served by a police officer.

It shall be the duty of police officers to keep the public peace, to obey all lawful process of any magistrate or court and to obey all lawful directions of the mayor duly issued and given for the preservation of public peace and order. It shall be their duty to attend at the city court of the city of Middletown during the hearing or trial of criminal matters under rules and regulations to be established by the board of police commissioners.

The chief of police, lieutenants of police, sergeants of police and police officers of this city shall have such further powers and duties as may be prescribed by rule or regulation of the board of police commissioners not inconsistent with any provision of this chapter or the general laws of the state.

[§ 131 added by L. 1942, Ch. 339]

§ 132.³⁵ Record of proceedings and appointments by Board of Police Commissioners and of rules and regulations established by them.

A record of all proceedings of the board of police commissioners shall be kept on file in the office of the chief of police. An appointment by the board of a police officer or officers, or of the chief of police, lieutenants of police, or sergeants of police, shall be in writing and signed by the members of the board or a majority thereof, and filed in the office of the chief of police and a duplicate thereof in the office of the City Clerk. An appointment shall be effective when so signed and filed, and it shall be the duty of the said Clerk to forthwith report in writing such appointment to the common council of the city. All rules and regulations established by the board shall be in writing and shall be signed by the members of the board or a majority thereof. Such rules and regulations when so signed shall be filed in duplicate, one duplicate to be filed in the office of the chief of police and one duplicate to be filed with the City Clerk. When so signed and filed they shall become effective forthwith. The board, in its discretion, may have all

³⁵Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

rules and regulations printed and furnish copies thereof to all police officers; or the board may cause a copy of the rules and regulations to be posted in police headquarters. Any charge incurred by the board for the printing of rules and regulations shall be a valid claim against the general funds of the city to be audited and paid as such. **[Added by L. 1942, Ch. 339; amended by L.L. No. 2-2007]**

§ 134. In case of riot or insurrection, the mayor may take command of the whole police force, including the chief executive officer thereof, and he may for the occasion appoint and commission as many special policemen as he may deem necessary who shall have all the powers of regular members of the police force; and in case of riot or other extraordinary emergency he may order out the firemen and state military organization having its headquarters in the city to preserve the peace and protect life and property. **[Amended by L. 1922, Ch. 613]**

§ 135. No member of the police department is liable to military or jury duty, nor shall he hold any other office or be employed in any other department of the city government, except as deputy to the city clerk in the issuance of licenses. **[Amended by L. 1922, Ch. 613]**

§ 136. [Repealed by L. 1922, Ch. 613]

§ 137. No member of the police force shall be a member of or delegate to any political convention, nor shall he be present at any such convention except in the performance of duty relating to his position as such officer. Any violation of these provisions shall work a forfeiture of his office or position, and it shall be the duty of the mayor to dismiss him from his position and record the cause of such dismissal. **[Amended by L. 1922, Ch. 613]**

§ 138. It shall be unlawful for any member of the police force to solicit any person to vote at any political caucus, primary or election for any candidate, or to challenge any vote, or in any manner to attempt to influence any voter at any political caucus, primary or at any election or to be a member of any political committee; and any person violating the provisions of this section shall forfeit his position on the police force.

§ 139. [Repealed by L. 1922, Ch. 613]

§ 140. [Repealed by L. 1922, Ch. 613]

§ 141. [Repealed by L. 1922, Ch. 613]

§ 142. [Superseded by L. 1926, Ch. 559³⁶]

§ 143. [Superseded by L. 1926, Ch. 559]

§ 144. [Repealed by L.L. No. 1-2009]

§ 145. [Superseded by L. 1926, Ch. 559]

§ 146. [Repealed by L. 1926, Ch. 559]

§ 147. [Superseded by L. 1926, Ch. 559]

§ 148. [Repealed by L.L. No. 1-2009]

§ 149. [Repealed by L. 1922, Ch. 613]

§ 150. [Repealed by L.L. No. 1-2009]

§ 151. [Repealed by L. 1922, Ch. 613]

³⁶Editor's Note: Sections 142, 143, 145 and 147, concerning the office of City Recorder, his powers and duties, were superseded, although not specifically repealed, by L. 1926, Ch. 559, known as the "Middletown City Court Act." The office of Recorder was abolished by the City Court Act on January 1, 1928, and "all powers and duties given to or imposed upon such recorder by any provisions of law shall devolve upon and be exercised by the City Judge."

TITLE VIII

Prevention and Extinguishment of Fires

§ 152. The fire limits as now established in the city of Middletown and the provisions regulating the erection of buildings within such limits shall remain in force under this act, subject to the power of the common council to alter the same.

§ 153. [Repealed by L. 1916, Ch. 200]

§ 154. The common council shall have power by ordinance, to regulate the construction of chimneys and compel the sweeping thereof to prevent a dangerous construction or condition of chimneys, fireplaces, hearthstones, stovepipes, ovens, boilers and apparatus used in any building or manufactory, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous, to prevent the deposit of ashes in unsafe places, to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires, and to regulate and prevent the use of fireworks and firearms within the city limits, to compel the owners and occupants of houses and other buildings to have scuttles in roofs, and stairs and ladders leading to the same; to prohibit or regulate the keeping and conveying of gunpowder and other dangerous material, and the use of candles and lights in barns, stables and other buildings; also to prohibit or regulate the keeping and conveying of petroleum, earth or rock oil, benzol, benzine, naphtha, kerosene, camphene, or burning fluid of any kind or other dangerous material; and to provide for the inspection of the same by an inspector appointed by them; and in case of violation of the ordinances regulating the same, to provide for the forfeiture thereof, or for such penalties as by ordinance the common council may impose; to authorize the mayor, aldermen, or other officers of said city to enter upon and inspect any place or places for the purpose of ascertaining whether the same is or are in a safe condition, and if not, to direct or cause the same to be made so; to keep away from the vicinity of any fire all idle and suspicious persons, to compel all officers of said city and other persons to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, to require all such further and other acts to be done, and to regulate or prohibit the doing of all such further or other acts as they may deem proper to prevent the occurrence, and to provide for the extinguishment of fires in said city, designating such portions of said city as they may deem proper within which no building in whole or in part of wood or other combustible material shall be erected, repaired, reroofed, made larger or removed; to remove or provide for a removal thereof, if so erected, repaired, rebuilt, reroofed, made larger or removed. The common council shall also have the power to raze or demolish any building or erection which by reason of fire or any other cause may become dangerous to human life or health or tend to extend conflagration. [Amended by L. 1922, Ch. 613]

§ 155. [Repealed by L. 1922, Ch. 613]

§ 156. [Repealed by L. 1922, Ch. 613]

§ 157. The Common Council shall purchase and procure fire engines and other apparatus used for the extinguishment of fires and shall provide fit and secure engine houses and other places for keeping and preserving the same, whenever authorized by a vote of the inhabitants of said City, and prescribed by this act, or whenever there are any unappropriated funds belonging to said City. The Mayor shall have the charge and control of the same as the chief executive officer of the City. The Common Council shall have power to organize fire, hook and ladder and hose companies. Said Council, upon recommendation of the Mayor, shall also prescribe the duties of the Chief Engineer, and three (3) assistants, clerk and treasurer, and said Council shall authorize the continued membership of any firemen or appoint as firemen a competent number of able and respected inhabitants of said City or of territory outside the City which is afforded fire protection by the fire department of the City, or any fire company thereof, pursuant to a contract for fire protection, or who, if by reason of their residence in the vicinity and their usual occupation will be available to render active services as volunteer firemen in the City or in territory which is afforded fire protection pursuant to a contract for fire protection by the fire department in the City or a fire company thereof. The Mayor, as the chief executive officer of the City, shall oversee the care and management of the engines and other apparatus and implements used or provided for the extinguishing of fires. The Chief Engineer shall report and be responsible directly to the Mayor with respect to the operations and needs of the Fire Department, and the Chief Engineer shall so report to the Mayor as required by the Mayor. After receiving recommendations from the Mayor, the Common Council shall prescribe the duties of firemen, and make rules and regulations for their government; shall impose such reasonable fines and forfeitures, as said Council may deem proper, upon said firemen for violation of said rules and regulations; and in the event of incapacity, neglect of duty or misconduct, and upon recommendation of the Mayor, the Common Council shall have the power to remove said firemen and to appoint others in their places.. [Amended by L. 1922, Ch. 613; L. 1943, Ch. 710; L.L. No. 4-1954; L.L. No. 2-1961; L.L. No. 6-1963; L.L. No. 1-1993; L.L. No. 1-2011]

§ 157-B. In addition to such provisions of law and regulations as may now be in force for the discipline of firemen of the city, the board of engineers of the fire department of the City of Middletown, consisting of the chief engineer, the first assistant engineer, the second assistant engineer and the third assistant engineer, or the Public Safety Committee of the Common Council, or Chief of the Fire Department, shall have the power to discipline and punish, in the manner herein provided, any paid fireman of the city, for neglect of duty or a violation of any of the rules and regulations of the Fire Department establish pursuant to law, or for disobedience of orders, absence from duty without leave or any conduct deemed by such Board or Public Safety Committee of the Common Council to be unbecoming a fireman. The powers and proceedings of the said Board of Engineers or the Public Safety Committee of the Common Council or Chief of the Fire Department to discipline or punish firemen, shall be the following:

- a. Before the said Board of Engineers or the Public Safety Committee of the Common Council shall render any punishment or take any disciplinary action affecting any such fireman, the matter must be brought to the attention of the Board of Engineers or the Public Safety Committee of the Common Council by a charge in writing which may be made by any member of the Board or the Public Safety Committee of the Common Council, by one paid fireman against another paid fireman, as well as by a member of the public against a

paid fireman. The paid fireman shall be served, in the manner hereinafter set forth, with a notice that charges thereof are preferred against him. The written charges shall set forth in detail the nature of the complaint against the paid fireman, and shall be signed and verified by the Chief of the Fire Department if the charges are preferred by any member of the Board of Engineers; or by the individual making the complaint, if the charges are not

preferred by a member of the Board of Engineers; as hereinafter set forth, the verified statements of all witnesses shall be annexed to and form a part of the written charges.

- b. A copy of the written charges shall be served either personally or by registered mail, addressed to his residence upon the paid fireman against whom the same have been preferred, together with a notice which shall set a time and place for a hearing thereon. The charges shall be heard and determined either by the Board of Engineers or by the Public Safety Committee of the Common Council, and it shall be the privilege of the accused paid fireman to select which duly constituted body shall hear and determine the charges. The time for the hearing shall not be less than ten (10) days after service made as aforesaid of a copy of the charges upon the paid fireman, who shall, within five (5) days after said service, send a written notice either to the Board of Engineers or to the Public Safety Committee of the Common Council which body he has selected to hear and determine the charges against him. If the accused paid fireman does not exercise his said privilege, then and in that event, the charges shall be heard and determined by the said Public Safety Committee of the Common Council. The original verified written charges shall be delivered either to the Board of Engineers or the Public Safety Committee of the Common Council, as the case may be, at least five (5) days before said Board or Committee is to hear and determine the charges. The originals of all written statements of witnesses relating to the charges shall be filed with the original verified written charges and copies thereof shall be attached to the copy of the written charges served upon the accused paid fireman. The accused paid fireman shall be allowed at least eight (8) days and not more than nine (9) days for answering the charges in writing. The said answer shall be filed with the Corporation Counsel of the City of Middletown within the time limits specified.
- c. In instances where paid firemen prefer charges, they shall at the time of the alleged violation, call it to the attention of the individuals present, specifying its character and notifying them that they may be subject to being called as witnesses. Any attempted evasion of this duty on the part of the paid fireman, or the giving of false testimony, or the withholding of facts or other information, shall subject said paid fireman to charges.
- d. The hearing by the Board of Engineers or the Public Safety Committee of the Common Council, as the case may be, may be public or private, at the option of the paid fireman so charged. The accused paid fireman shall have the right to be present at said hearing, with legal counsel, to present evidence in his defense, and to examine and cross-examine witnesses. The hearing may be held and determination made by the Board of Engineers or the Public Safety Committee of the Common Council, or a majority of members thereto. In connection with any such hearing, the Board or the Committee, or any member thereof, shall have the power to issue subpoenas for the attendance of witnesses at such hearing, and any person duly served with a subpoena shall attend in obedience thereof, and the Board of the Committee shall have the same authority to enforce the subpoena and to punish for contempt thereof as is possessed by the County Court of Orange County.

e.³⁷ The Chief of the Fire Department may by written notice suspend a fireman from duty without pay pending a hearing and determination upon charges before the Board or Committee, but any such suspension shall not be for a longer period than thirty days. The chief of the Fire Department shall notify in writing the City Clerk and Collector of any such temporary suspension from duty of the said fireman pending the hearing. If the accused fireman shall be found guilty by a majority of the Board of engineers or a majority of the Public Safety Committee of the Common Council, the penalty or punishment may consist of (a) reprimand, (b) a fine not to exceed one hundred dollars (\$100.) to be deducted from the salary or wages of such Fireman, (c) suspension from duty and from pay for a period not exceeding two months, (d) demotion in grade and title or dismissal from the service, provided, however, that the time during which paid fireman is suspended without pay may be considered as part of the penalty, (e) any paid fireman who has been found guilty may appeal for relief to the Middletown Civil Service Commission or to the duly constituted Courts, (f) the Chief of the Fire Department shall have the power to summarily suspend from duty without pay for not more than five (5) days any paid fireman of the Fire Department of the City of Middletown for flagrant violations of the Rules and Regulations, or when the reputation and discipline of the Department would suffer if such action were not taken. He shall immediately report each suspension to the City Clerk and Treasurer. Paid fireman suspended from duty shall not appear in uniform. Paid fireman under suspension shall personally report to the Chief Officer or dispatcher by 9:00 a.m. daily, but after reporting shall not be assigned to any duties until the suspension is revoked. Paid fireman shall not receive any remuneration for the period of their suspension from duty, unless and until restored to duty after trial and thereupon the paid fireman shall receive remuneration from and after the date of suspension, except that he shall not receive remuneration for the period of suspension or portion thereof which shall be considered as part of the penalty, and except further that said remuneration shall be less any earnings during such period in any other employment earned during any period corresponding to his regular tour of duty and any unemployment insurance benefits accrued during such period and except as otherwise stated herein. Any paid fireman summarily suspended by the Chief of the Fire Department in accordance with subdivision (f) of paragraph "e" of Section 157-B shall have a right to appeal to the Board of Engineers or the Public Safety Committee of the Common Council provided he serves a notice of appeal in writing within ten (10) days after the first day of his suspension upon any member of the Board of Engineers or of the Public Safety Committee of the Common Council. Any determination of a majority of the Board or Committee shall be final.

[§ 157-B added by L.L. No. 5-1942; amended by L.L. No. 4-1963; L.L. No. 1-1993]

§ 158. [Amended by L. 1922, Ch. 613; repealed by L.L. No. 1-2009]

§ 159. [Repealed by L.L. No. 1-2009]

³⁷Editor's Note: This subsection was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

§ 159-A. The Police Commission shall appoint such number of persons to be fire police as may be certified by the Mayor in writing to the Board of Police Commissioners to be necessary and proper. The persons appointed as fire police shall hold office for one (1) year from time of appointment.

- (1) All applicants for appointment as a fire policeman, shall be citizens of the United States, over the age of twenty-one (21) years and residents of the city of Middletown. No person shall be appointed as a fire policeman who shall have been previously convicted of a felony or a misdemeanor involving moral turpitude.
- (2) The fire police so appointed and confirmed shall forthwith take and file with the clerk the oath of office as provided by section ten of the charter and shall thereupon become vested with all the powers and shall discharge all the duties of fire police as provided herein.
- (3) It shall be the duty of such fire police, to detect and prevent fires; to place fire lines so as to provide facilities for the fire department to work advantageously; to keep unauthorized persons outside such fire lines; to aid and assist the police department in regulating highway traffic to and from all fires; to enforce all ordinances of the city relating to the protection of the fire department apparatus and members; and during the course of any fire said fire police shall be vested with all the powers and shall discharge all the duties as are now vested or imposed upon the police officers of the city. The fire police shall obey all orders, rules and regulations as promulgated by the chief or assistant chief of the fire department. The mayor may at any time he deems necessary and for the public interest deputize and appoint for such period as he may direct, any fire policeman as a special police officer as provided by § 129 of the charter and such fire police shall thereupon become vested with and shall discharge all the duties of police officers.
- (4) Any fire policeman during the tenure of his appointment shall be accorded and possessed with the same rights and privileges if injured or killed while in the active performance of his duties as are now accorded and possessed by volunteer firemen by the laws of the state of New York.
- (5) For the purpose of furthering the objects for which they are appointed and in conformity with the requirements of the fire department, the fire police are authorized and empowered to form an organization to be known as the Middletown Fire Police; to elect one captain, one sergeant, one roundsman, a secretary and a treasurer, as their officers, and to adopt by-laws for the guidance of the organization not inconsistent with the provisions of this act, which by-laws shall be approved by the mayor and common council. Such fire police may adopt a uniform, cap and badge for their better identification, subject to the approval of the chief of the fire department.

[§ 159-A added by L. L. No. 1-1937; amended by L.L. No. 1-1957]

§ 159-b. The salaries and compensation of the paid firemen (drivers) of the City of Middletown, New York, shall be fixed by the Board of Estimate and Apportionment of the City, but no such salaries or compensation shall be effective until approved by the Common

Council; provided, however, that the salaries and compensation to be received by the paid firemen (drivers) of said Fire Department, during the fiscal year beginning December 1, 1957 and during each subsequent fiscal year, shall not be less than the amount with increments as set forth in the schedule thereof in Title IV, Section 64, as amended by Section 1 of this local law. **[Added by L. L. No. 2-1957, § 5]**

TITLE IX
Acquisition of Real Property
[Added by L. 1922, Ch. 613]

§ 160. When the council shall by resolution determine that real property or any interest therein located within or without said city is necessary for a public purpose, or the making of a public improvement, the board of estimate and apportionment shall endeavor to purchase said real property or interest therein, at an agreed price, subject to the approval of the council. In case of agreement and approval the property may then be purchased and title taken in the name of the city.

§ 161. In case said board cannot agree with the owners of any property or easement as to price, or in case said agreement cannot be made by reason of the disability of any of the owners of said property, the council may direct that such property be acquired by proceedings instituted for the condemnation thereof in the manner provided by law for the condemnation of real property, and the fact that the council shall have, by resolution, determined that the taking of the property or easement sought to be condemned is necessary for the public use, shall, in the absence of fraud or bad faith, be conclusive upon the question of such necessity in said proceedings.

§ 162. [Repealed by L.L. No. 1-2009]

§ 163. [Repealed by L.L. No. 1-2009]

§ 164. [Repealed by L.L. No. 1-2009]

§ 165. [Repealed by L. 1953, Ch. 878, § 325(2), Schedule "A"]

TITLE X
Water Department

§ 175. The board of water commissioners of the city of Middletown is hereby abolished and the term of office of each water commissioner and of each clerk and employee of the board of water commissioners shall terminate upon the taking effect of this act, all property real and personal, rights, powers, privileges and contracts at the time of the passage of this act, possessed, owned, occupied, exercised and enjoyed by, as well as all the duties, contracts, obligations and liabilities imposed upon the said village or city of Middletown, pursuant to an act of the legislature of the state of New York, entitled "An act to supply the village of Middletown with water for public and private purposes," passed April third, eighteen hundred and sixty-six, and the several acts amendatory thereof and supplemental thereto, are hereby transferred to, vested and imposed upon said city of Middletown; and all contracts, rates, charges, ordinances, rules and regulations of the board of water commissioners of the city of Middletown in force at the time of the passage of this act, shall be and remain valid and effectual as the ordinances, contracts, rates, charges, rules and regulations of the common council and said city, until repealed, modified or changed, subject, however, to the provisions of this act, with the same force and to the full extent as might have been done by or on the part of the said board of water commissioners and village or city or either; and the rights and privileges of all persons or parties that may have arisen or accrued under, pursuant to or by reason of any such contract, ordinance, rule or regulation, rates and charges, or otherwise, as well as any liabilities that may have arisen by reason thereof, shall remain and be the same under this act as they would have been had not this act been passed; and all rights and liabilities of said board of water commissioners of said city existing at the time of the passage of this act, shall be in no wise affected or changed hereby, except as herein specified. **[Amended by L. 1911, Ch. 699]**

§ 176. The board of estimate and apportionment shall make such rules and regulations for the preservation, management and protection of the water works and the use and control of the water, as may be deemed advisable, and prescribe the penalty for the violation thereof, which penalty, if not paid when imposed, shall constitute a lien upon the premises in like manner as unpaid water rents, and which, when ratified and approved by the common council, shall have the same force and effect as any law or ordinance by it enacted, and may alter or amend the same with the approval of the common council. **[Added by L. 1922, Ch. 613]**

§ 177. The said board of estimate and apportionment by and with the consent of the common council shall establish a scale of annual rents to be charged and paid semi-annually, on May first and November first, by the owners and occupants of all buildings which shall be situated on lots adjoining any streets or avenues in said city, in which the distributing pipes are or may be laid, and from which they can be supplied with water, to be called water rents, and to be apportioned to the different classes of buildings in said city, in reference to their own dimensions, value, exposure to fire, ordinary uses for dwellings, stores, shops, private stables and other common purposes; number of families or occupants, or consumption of water, as near as may be practicable, also a scale of rates to be charged and paid for water supplied through meters and the rates to be charged and paid for water used in the erection of new buildings,

which amounts shall be paid on demand by the owner or occupant of the property upon which such water shall be consumed and, from time to time, to alter, modify, amend, increase or diminish such rents in said scale, and extend it to other descriptions of buildings, establishments or uses. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 6-1942]**

§ 178. The commissioner of public works shall determine the amount of water used by hotels, factories, stables, breweries, mills, foundries, and other buildings, establishments and trades, which consume extra quantities of water, and shall have power to attach a meter to any premises when deemed advisable and all expenses of meters, their connections, setting, repairing and all water rates, including schedule and meter rates, and all other lawful charges for city water supplied in any manner shall be a charge against the property where such water is supplied. **[Added by L. 1922, Ch. 613]**

§ 179.³⁸ All water rents thus determined, together with all such expenses and charges, shall be payable to the Treasurer as collector, and shall constitute a lien on the property upon which such water shall be used in like manner as city taxes. All moneys so collected shall be credited to the water department fund. **[Added by L. 1922, Ch. 613; amended L.L. No. 2-2007]**

§ 180.³⁹ If the said Treasurer and collector shall be unable to collect any of such water rents, he or she shall make return thereof, under oath, to the Common Council; and the Commissioner of Public Works thereupon and thereafter said Council shall have power to sue for and collect such rents, together with ten per centum thereon in addition thereto, from the persons against whom the same shall be charged in said assessment-roll as aforesaid. And the said water rents shall be liens upon the property in respect to which they are assessed, and shall be filed in the office of the Treasurer and may be collected by a sale of such property in the manner hereinbefore provided for the collection of taxes and assessments for city purposes, and the said Commissioner may also cut off the supply of water leading to the premises upon which such water rents are assessed, and prevent the further use of water from the water works of said city; until said rents, with interest and fees, be fully paid, and the charge to be fixed by the Board of Estimate and Apportionment for shutting off and turning on the water to the occupant or occupants of said premises. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 2-2007]**

§ 181. The supply pipes leading from the buildings to the distributing pipes shall be inserted and kept in repair at the expense of the owners or occupants of the buildings, and shall not be inserted or connected with the main pipes until a permit therefor shall be obtained from the commissioner of public works or other person designated by him and all such connecting or

³⁸Editor's Note: This section was amended by L.L. No. 3-1981, which local law was deemed ineffective by L.L. No. 4-1983. Section I of L.L. No. 4-1983 provided as follows: "The Local Law No. 3 of 1981 is ineffective because it was never put to a mandatory public referendum. Therefore, any laws it attempted to replace remain intact and have never been changed."

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supply pipes or fixtures shall be constructed under or according to the direction of said commissioner or his agent. The commissioner and every other person by him delegated for the purpose shall have free access at all reasonable hours to all parts of any building or premises into which the city water is delivered and consumed. He shall keep the property and works belonging to the city, and used and provided for the purpose of furnishing a supply of water, in good order and repair, and see that all proper measures are taken to preserve the purity of the water and a sufficient supply thereof. He shall, whenever the common council deems it advisable, cause the line of water pipes connected with such water works to be laid down and extended through any of the public streets, lanes or alleys, in said city, and shall superintend the laying down of the same. He shall keep a correct account of the expenses thereof, which shall be paid by the treasurer on the order of the said council, from the water department fund. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 182. The common council is hereby authorized to levy and collect a frontage tax in each and every year on all unimproved real estate lying along or fronting on either side of any street or alley in which the water main is now laid, or may be hereafter laid, except in case of property along such mains using such water for which a rate is otherwise charged or paid, and also excepting corner lots where water pipes are laid or hereafter laid in both streets, in which cases the frontage tax shall be assessed only upon one street; said frontage tax shall be fixed by said common council, not to exceed in any one year two cents for each foot frontage, or fraction thereof, of any tracts or parcels of land lying along or fronting on either side of any such street or alley. The common council is hereby given power to levy a rate of taxation upon any improved property not using the city water where water mains are laid in the street as may in its judgment be deemed equitable and proper on account of the benefits such properties may derive from their protection against fire. Any tax so imposed or assessed upon any premises in said city shall become a lien upon such premises and bind the same in the same manner, as other city taxes are now imposed and collected; and the moneys so collected shall be credited by the treasurer of said city to the said water department fund. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 183. The entire annual receipts for water rents, after deducting therefrom such sums as may be necessary to defray the ordinary expenses or repairs of said water works and of extending the same, and salaries of officers and employees, shall be applied to the payment of the interest on the debt contracted for furnishing the village or city of Middletown with water, and the interest on any debt that may be contracted under the provisions of the local finance law, the balance if any, may be set apart as a sinking fund to retire any outstanding bonds. **[Amended by L. 1922, Ch. 613; L. 1943, Ch. 710]**

§ 184. In case the entire annual receipts for water rents, after deducting therefrom such sums as may be necessary to defray the ordinary expenses and repairs of the said works, and of extending the same, and salaries of officers and employees, shall not be sufficient in any one or more years to pay the interest on the said debt; the common council shall cause to be levied and collected from and against all the taxable property in said city, at the same time and in the same manner as other expenses of the said city are assessed, levied and collected, such sum or sums of money as said council, shall determine to be necessary to make good such deficiencies, and

the sum shall be applied to the payment of such interest, and expenses. **[Amended by L. 1922, Ch. 613]**

§ 185. [Repealed by L. 1922, Ch. 613]

§ 186. The Commissioner of Public Works and his/her authorized agents or employees, are authorized in accordance with the provisions of the United States and New York Constitutions to enter on any land or water for the purpose of making surveys of such property as they may deem necessary, for the enlargement, alteration or improvement of the water works. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 1-2009]**

§ 187. The common council is hereby authorized to make agreement with any owner or owners of lands, lakes, ponds, springs or streams of water or other property which may be required for the enlargement, alteration or improvement of the water works of said city, or which may be injuriously affected thereby, as to the price to be paid to such owner or owners, and may buy in the name of the city of Middletown any such lands, lakes, ponds, springs or streams of water or other property which may be so required, or any easement in any lands, for the purposes aforesaid, and any such acquisition shall be held by the said city for the purposes of the water works. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 188. In case of disagreement between the Common Council and the owner or owners of any lands, lakes, ponds, springs, easements, or streams of water or other property which may now or hereafter be required for the enlargement, alteration or improvement of said water works, as to the amount of compensation to be paid to such owner or owners, or in case any such owner shall be an infant, or insane, or absent from the state, or the owner of an uncertain or contingent interest, or in case of any other disability on the part of the owners, the Common Council may direct that such property or easement be acquired by proceedings instituted for the condemnation thereof under the Eminent Domain Procedure Law. The expenditure involved in such acquisition may be financed, in whole or in part, pursuant to the laws of the State of New York. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613; L.L. No. 1-2009]**

§ 189. [Repealed by L. 1922, Ch. 613]

§ 190. The authority of this act, conferred upon the common council of the city of Middletown to enlarge, alter and improve the water works of said city, is hereby declared to include the authority to construct such additional aqueducts and reservoirs, and to lay such additional mains and other distributing pipes, in connection with said water works, and to acquire the title to such lands, water and other property necessary thereto, as the common council of said city shall, from time to time determine to be necessary for the purposes of supplying the city of Middletown with pure and wholesome water, or for the extinguishing of fires therein. **[Amended by L. 1911, Ch. 699]**

§ 191. [Amended by L. 1911, Ch. 699; repealed by L.L. No. 1-2009]

§ 192. It shall be lawful for the common council to raise by loan, for the purpose of such enlargement, alteration and improvement of the water works of said city, as provided in this act, from time to time, upon bonds of the city of Middletown, such amounts as occasion may require, which bonds shall be in the form of and disposed of as those referred to in section seventy-eight of this act. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 193. The common council is hereby authorized to borrow money and issue new bonds from time to time as provided in this act as the water bonds heretofore issued by the village or city of Middletown, or which may hereafter be issued by said city pursuant to this act shall respectively mature and fall due, to take up and replace, or as substitutes for said water bonds, provided said city has no further funds on hand when said bonds shall from time to time mature sufficient to pay the same. **[Amended by L. 1922, Ch. 613]**

§ 194. For the purpose of creating and continuing a sinking fund for the payment of the water bonds heretofore issued by the village or city of Middletown, and also for the payment of the bonds hereafter authorized to be issued the common council of said city is hereby further authorized, empowered and required to impose, levy and assess upon the taxable property of said city a direct annual tax of at least two thousand dollars in each and every year hereafter, until a sufficient sum be thus raised to pay the entire principal of such bonded indebtedness of such village, and of said city, heretofore, and hereafter authorized. **[Amended by L. 1922, Ch. 613; L. 1943, Ch. 710]**

§ 195. [Repealed by L. 1922, Ch. 613]

§ 196. It shall be the duty of the board of estimate and apportionment to see that the proceeds of such annual tax and all moneys paid into the sinking fund are applied as soon as practicable to the payment and redemption of the water bonds of the city, and if there are no bonds on which payment can be made, it shall invest the same as provided in this act. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 197. [Amended by L. 1911, Ch. 699; repealed by L.L. No. 1-2009]

§ 198. [Repealed by L. 1922, Ch. 613]

§ 199. [Repealed by L. 1922, Ch. 613]

§ 200. [Repealed by L. 1922, Ch. 613]

§ 201. The said commissioner of public works, by order of the common council and all persons acting under his authority, shall have the right to use the ground or soil under any street, highway or road within the town of Wallkill and adjoining towns, for the purpose of introducing water into and through any portion of the city of Middletown, on condition that he shall cause the surface of said street, highway or road to be relaid and restored to its usual state, and all damages done thereto to be repaired. **[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613]**

§ 201-a. The board of estimate and apportionment of the city may, subject to the approval of the common council, supply directly to consumers or contract to supply water to municipal corporations, water districts, fire districts, corporations or individuals in territory outside the city, under such rules and upon such rates and terms as such board may fix and prescribe. For the purpose of supplying water as provided in this section, such board shall have power and authority to extend the water mains and pipes beyond the corporate limits of the city and to lay and maintain pipes and water mains under any street, highway, road or other lands in territory outside the city; but nothing herein contained shall be deemed or construed to exempt or excuse such board from compliance with any law appertaining thereto, in using or acquiring the use of such streets, highways, roads or other lands for such purposes. The cost of such water mains, pipes and appurtenances thereto and the installation thereof may be assumed and paid by such board of estimate and apportionment from the annual receipts for water rents of the city, and if such cost be so assumed or paid, it shall be deemed an ordinary expense of the water works system of the city. **[Added by L. 1936, Ch. 372]**

§ 202. It shall not be lawful for any person to throw or deposit, or cause to be thrown or deposited into any pond, lake, spring, aqueduct or reservoir, owned or used or hereafter to be owned or used by the city of Middletown, or into any stream of water taken or to be taken, in whole or in part for the purposes of this title, any dead animal, or other offensive matter, or anything whatever; and any person offending against the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court; such fine not to exceed one hundred dollars, and such imprisonment not to exceed a period of three months.

§ 203. All parts of an act, entitled "An act to supply the village of Middletown with water for public and private purposes," passed April third, eighteen hundred and sixty-six, and the acts amendatory thereof, that are inconsistent with this act are hereby repealed, but such repeal shall not affect or impair any rights or liabilities heretofore acquired or imposed.

(Cont'd on page 109)

TITLE XI

Commissioners of Charities

**[Amended by L. 1916, Ch. 200; L. 1922, Ch. 613;
L.L. No. 1-1942; repealed by L.L. No. 1-2009]**

§§ 204. through 209. (Reserved)

ARTICLE XII

Board of Health

**[Amended by L. 1911, Ch. 699; L. 1922, Ch. 613;
L. 1953, Ch. 878, §§ 188, 189; repealed by L.L. No. 1-2009]**

§§ 210. through 212. (Reserved)

TITLE XIII
Miscellaneous Provisions

§ 215. The term person, when used in this act, or in any of the ordinances or by-laws of said city, shall be construed to mean and apply to all corporations and associations, as well as natural persons. And all provisions of this act or any of the ordinances or by-laws of said city shall apply, so far as the same are applicable, to such corporations or associations.

§ 216. **[Repealed by L.L. No. 1-2009]**

§ 217. **[Repealed by L.L. No. 1-2009]**

§ 218. From and after the time when this act shall take effect all acts and parts of acts inconsistent with or repugnant to this act, are hereby repealed; but nothing herein contained shall be construed so as to destroy, impair or take away any right or remedy acquired or given by any act hereby repealed; and all proceedings commenced under any such former act, shall, and may be carried out and completed, and all prosecutions for any offense committed, or penalty or forfeiture incurred, shall be carried on with the same effect as though this act had not been passed, and all rights, interests, powers or privileges now possessed and enjoyed by the city of Middletown, not inconsistent with the provisions of this act, are hereby preserved and continued.

§ 219. This act is hereby declared a public act, and shall be construed favorably and benignly for every beneficial purpose therein contained.

§ 221. This act shall take effect immediately.⁴⁰

⁴⁰Editor's Note: Laws 1902, Ch. 572 became effective April 11, 1902.