

CHAPTER C  
**CHARTER**  
OF THE  
**CITY OF MIDDLETOWN**



**Proposed Revisions: 10 May 2021**

**Charter Revision Commission 2020-2021**

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# CHARTER OF THE CITY OF MIDDLETOWN

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# CHAPTER I: INCORPORATION, GENERAL POWERS AND CONSTRUCTION OF THE CHARTER OF THE CITY OF MIDDLETOWN

## SECTION 1. TITLE<sup>1</sup>.

The title of this Act shall be the “Charter of the City of Middletown”.

## SECTION 2: DEFINITIONS AND TITLES GENERALLY<sup>2</sup>[S1].

The definitions contained in the General Statutes of the State of Connecticut shall govern the interpretation of this Charter; unless otherwise defined herein. Articles and Sections are for the purpose of ready reference and shall not be held to limit, extend or effect the interpretation and meaning of the text.

## SECTION 3: DEFINITIONS<sup>3</sup>.

Whenever used in this Charter:

**A.** “Board” or “Commission<sup>4</sup>”. For the purposes of this Charter and except as otherwise provided by Law, the terms “Board” and “Commission” shall include all Boards, Commissions, authorities or like entities of the City, whether elected or appointed.

**B.** “Capital Budget<sup>5</sup>” means expenditures for (1) any physical betterment or improvement or any preliminary studies of surveys relative thereto; (2) the acquisition of real property or other property of a permanent nature; (3) the purchase or acquisition of equipment for any public betterment or improvement; (4) major alterations and repairs to existing buildings, structures or equipment; or (5) any lease which commits the City to more than one year of aggregate payments in an amount set by the Common Council, from time to time.

**C.** “Charter” shall mean the Charter of the City of Middletown.

**D.** “City” shall mean the City of Middletown.

**E.** Classified Service<sup>6</sup>[S2] shall have the meaning set forth in Chapter X, Section 1.A.

**F.** “Council” or “Common Council<sup>7</sup>” means the Common Council of the City, the legislative body of the municipality, as required by the General Statutes.

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<sup>1</sup> NEW (2021)

<sup>2</sup> NEW (2021).

<sup>3</sup> NEW (2021).

<sup>4</sup> NEW (2021).

<sup>5</sup> NEW (2021).

<sup>6</sup> Recodification and modification of Article X, Section 1.A.

<sup>7</sup> Required by C.G.S. §7-193(a)(1)(C).

**G.** “Day(s)” means calendar days; unless, otherwise specifically set forth in this Charter. Moreover, where a Day set forth in this Charter falls on a weekend, holiday or day when the City is closed for business, the deadline shall be extended through the close of the next City business day; unless otherwise required by Law.

**H.** “Department” means any major functional or administrative division of the City, including any offices, agencies, bureaus or other descriptions serving such purpose as may be set forth in the budget of the City. When used within the section establishing or describing the duties of the particular department or its related Board or Commission, the term “Department” shall apply exclusively to the functional division referred to in that section.

**I.** “Department Head” means an employee who heads any Department in the City; has substantial supervisory control of a permanent nature over other municipal employees; and, is directly accountable to the Mayor, including Directors.

**J.** “Elected Official” or “Elected Official of the City” means an individual who holds an elected municipal office (as defined in C.G.S. §9-372 but shall not include a justice of the peace or notary public) in the City. The Elected Officials of the City are set forth in §3-3. A (1) of this Charter.

**K.** “Elector<sup>8</sup>” shall have the meaning contained in the General Statutes.

**L.** “General Statutes” shall mean the General Statutes of the State of Connecticut, as amended from time to time.

**M.** “Law” includes, but is not limited to, decisions of courts and administrative bodies, federal or state legislative enactments, rules and regulations and local Ordinances and regulations.

**N.** “Majority Vote of the Common Council” means more than half of the votes have been cast by the members at a meeting of the Council at which a quorum is present<sup>[s3]</sup>.

**O.** “Mayor” shall mean the chief executive officer of the municipality, as required by the General Statutes.

**P.** “Meeting (or Hearing) Notice” means a notice posted as required by the General Statutes, including posting of regular meetings with the Office of the Secretary of the State and the City Clerk, as well the requirement pertaining to special and emergency meetings as well as public hearings. In addition to the above-referenced postings, the City may post notices on its web-site or through other electronic media and, if practicable or otherwise required by Law, may be published in a newspaper of general circulation distributed in the City, if required by Law. A Meeting Notice (including public hearings) shall state the time and place thereof and shall be published at a minimum in compliance with the General Statutes or by a more stringent requirement

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<sup>8</sup> C.G.S. §9-1. Definitions. (e) "Elector" means any person possessing the qualifications prescribed by the Constitution and duly admitted to, and entitled to exercise, the privileges of an elector in a town".

as may be set forth in this Charter. Meeting or Hearing Notice may also be governed by regulatory practices and procedures set forth in the General Statutes.

**Q.** “Official” or “Public Official” means an individual who holds an elected or appointed municipal office in the City; including but not limited to Elected Officials of the City; employees appointed subject to Chapter V, Sec. 2.A and 3.B of this Charter; and, members of Boards and Commissions, including the Board of Education. “Appointed Public Officials” shall include all Public Officials to the exclusion of Elected Public Officials. When the term “officer” is used, it shall be synonymous with the term “Official”.

**R.** “Order” means a legislative action conferring authority to do a specified act, including, but not limited to, the approval of Mayoral appointments, proposed contracts or other matters upon which are conferred temporary power or authority which when its purpose has been accomplished it ceases to require further authority. Orders shall be enacted in accordance with the provisions of this Charter.

**S.** “Ordinances” shall mean the powers of the City to (1) establish rules or regulations of general municipal application, the violation of which may result in the imposition of a fine or other penalty; (2) create a permanent local law of general applicability; or (3) accomplish other objectives permitted by the General Statutes as may be enacted in accordance with the provisions of this Charter.

**T.** “Public Notice” means a notice for matters other than public meetings or hearings, including the public inspection or availability of any documents or data, as may be required by this Charter. It specifically includes matters where “publication” was required under the prior Charter or the General Statutes. Said Public Notice shall be specifically set forth in this Charter or may be governed by the requirements of the General Statutes. Public Notice may be posted (1) in the office of the City/Town Clerk and other public space or location in the City Hall designated by the City/Town Clerk in order to assure sufficient disclosure to and access by the public; (2) in the Russell Library (and each branch of the Library); (3) on the City web-site or through other electronic media; and, (4) if otherwise required by Law, by publication in a newspaper of general circulation distributed in the City.

**U.** “Resolution” means an action by the Common Council that (1) expresses the sentiment or intent of the Council; (2) governs the business of the Council; (3) expresses recognition by the Council; or, (4) complies with the specific requirements of the General Statutes with regard to certain legislative enactments. A declaratory statement of the Council on a given matter.

**V.** “Special Acts” or “Special Laws” shall mean the acts of the General Assembly pertinent to the City.

**W.** “State” or “Connecticut” shall mean the State of Connecticut.

**X.** “State Constitution” shall mean the Constitution of the State of Connecticut.

Y. "Vacancy" or, in the alternative the use of the word "Vacant" means whenever any Official of the City, including Registrars of Voters, is unable to complete the current term of office due to death, resignation, removal, incapacity or other reason as may be defined by Ordinance.

Z. Where reference is made to the word "shall" the legislative intention is to make the function a mandatory or imperative obligation for the Official or entity charged with an obligation under this Charter or the Code of Ordinances of the City or as otherwise required by Law. It is recommended that to avoid any doubt the words "must" or "required" should be used in order to impose clarity on the concept of the obligations of the party referred to in this Charter or the Ordinances.

#### **SECTION 4. INCORPORATION<sup>9</sup>**

All the inhabitants dwelling within the territorial limits of the City of Middletown, as heretofore constituted, shall continue to be a body politic and corporate under the name of "The City of Middletown," hereinafter called "the City," and, as such, shall have perpetual succession and may hold and exercise all powers and privileges heretofore exercised by said City and not inconsistent with the provisions of this Charter and the additional powers and privileges conferred upon cities under the General Laws of the State of Connecticut.

#### **SECTION 5. RIGHTS AND OBLIGATIONS<sup>10</sup>**

All property, both real and personal, all rights of action and rights of every description and all securities and liens vested or inchoate in said City as of the effective date of this Charter are continued in said City and said City shall continue to be liable for all debts and obligations of every kind for which said City shall be liable on said date, whether accrued or not. Nothing herein shall be construed to affect the right of said City to collect any assessment, charge, debt or obligation. If any contract has been entered into by said City prior to the effective date of this Charter or any bond or undertaking has been given by or in favor of said City which contains provisions that the same may be enforced by any Commission, Board, Department or Official therein named, which is abolished by the provisions of this Charter, such contracts, bonds or undertakings shall be in no manner impaired but shall continue in full force and effect and the powers conferred and the duties imposed with reference to the same upon any such Commission, Board, Department or Official shall, except as otherwise provided in this Charter, thereafter be exercised and discharged by the Mayor of said City.

#### **SECTION 6. GENERAL GRANT OF POWERS<sup>11</sup>**

In addition to all powers granted to cities under the Constitution and General Statutes, the City shall have all powers specifically granted by this Charter and all powers fairly implied in or incident to the powers expressly granted and all other powers

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<sup>9</sup> Recodification of Chapter, Section 1.

<sup>10</sup> Recodification of Chapter, Section 2.

<sup>11</sup> Recodification of Chapter, Section 3.

incident to the management of the property, government and affairs of the City, including the power to enter into contracts with the United States or any Federal agency, State of Connecticut or any political subdivision thereof for services and the use of facilities, the exercise of which is not expressly forbidden by the Constitution and General Statutes of the State of Connecticut. The enumeration of particular powers in this and any other chapter of this Charter shall not be construed as limiting this general grant of power but shall be considered as an addition thereto.

**SECTION 7. ASSESSMENT OF BENEFITS, AWARD OF DAMAGES<sup>12</sup>.**

The City of Middletown may by Resolution of its Common Council assess benefits against any property benefited by any public work or improvement and may award damages to any owner of property damaged by, or taken for, any such public work or improvement, and shall have a lien against the property so benefited for the fair share of the cost of such public work or improvement as the Common Council may determine and the owner of such properties shall have such rights and the City such power and authority with respect to such assessments and awards as are provided in the General Statutes.

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<sup>12</sup> Recodification of Chapter, Section 4.

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## CHAPTER II: OFFICERS AND ELECTIONS

### SECTION 1. STATE AND FEDERAL OFFICERS<sup>13</sup>.

**Nomination and Election of State and Federal Officials; Role of the Registrars of Voters<sup>14</sup>.** Nomination and election of State and Federal Officers, State Senators and Representatives, Judge of Probate and two Registrars of Voters<sup>[s4]</sup>, shall be conducted and the Registrars of Voters shall prepare lists of Electors qualified to vote, therefore, in the manner prescribed by the Constitution and the General and Special Laws of this State applicable to the City of Middletown<sup>[s5]</sup>. .

### SECTION 2. ELECTED OFFICIALS - MUNICIPAL OFFICERS.

- A.** The Elected Officials of the City shall be: Mayor, thirteen (13) Members of the Common Council<sup>[s6]</sup><sup>15</sup>, <sup>[s7]</sup>Nine (9) Members of the Board of Education, three (3) Members of the Board of Tax Review, and seven (7) members and three (3) alternate members of the Planning and Zoning Commission.
- B.** For the term commencing at 12 o'clock Noon on the Tuesday following the certification of election of November 2023<sup>[s8]</sup> the Common Council shall consist of thirteen (13) members, who shall be elected at large for a term of two (2) years. Not more than eight (8) candidates for the Common Council may be nominated by any political party for the elections and the thirteen (13) candidates receiving the highest number of votes at said Election shall be declared elected<sup>16</sup>.

### SECTION 3. RESTRICTIONS ON ELECTED OFFICIALS.

No Elected Official of the City, during the full term of the office for which said Official was elected, shall be eligible for appointment to any salaried position except to the position Mayor's Chief of Staff<sup>[s9]</sup><sup>17</sup> within the City Government. Persons being so appointed must resign from the elected office.

### SECTION 4. MUNICIPAL ELECTIONS; TERM OF OFFICE; LIMITATION OF POWERS<sup>18</sup>.

- A. Term of Office.** The term of office for all Elected Officials, with the exception of the Common Council, shall be four (4) years. The term of office for the Common Council shall be two (2) years for the term commencing at 12 o'clock Noon on the Tuesday following the certification of election of November 2023<sup>[s10]</sup><sup>19</sup>.

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<sup>13</sup> Amended 11-4-2014

<sup>14</sup> Modification of Chapter II, Sec. 1 (elimination of the position of "Sheriff").

<sup>15</sup> Modification of Chapter II, Sec. 2 (expand Council to 13 members).

<sup>16</sup> Recodification and modification of Article III, Sec. 1. **Amended 11-4-2014**

<sup>17</sup> Modification of Chapter III, Sec. 3 (Change "Administrative Assistant" to "Chief of Staff").

<sup>18</sup> Amended 11-4-2014

<sup>19</sup> Modification of Chapter II, Sec. 4.A (two-year term for Common Council).

- B. Date of Election.** A meeting of the Electors of the City of Middletown shall be held biennially on the Tuesday after the first Monday of November of the odd-numbered years for the purpose of electing Officials to such Municipal Offices as are provided for in this Charter the terms of which are to expire.
1. At the first Biennial Election following adoption of this Charter provision, all Elected Officials will appear on the ballot except for the four (4) longest-serving Board of Education members, three (3) longest-serving Planning and Zoning Commissioners, and one (1) longest serving alternate Planning and Zoning Commissioners.
  2. The remaining Elected Officials will appear on the off-year Biennial Election, to be held on the Tuesday after the first Monday of November of the next odd-numbered year.
- C. Commencement of the Term of Office.** The Term of Office for all Elected Officials of the City, except as otherwise provided by Law, shall commence at 12 o'clock Noon on the Tuesday following the certification of election of each such Elected Official by the City/Town Clerk of the City and shall continue until 12 o'clock noon of the Tuesday following the Biennial Election in which the Official's term expires.
- D. Transition Period: Limitation of Authority of the Outgoing Mayor.** The period between a Biennial Election for Mayor and the commencement of a term of office for a new Mayor shall be a transition period and during said period the outgoing Mayor shall meet with and assist the incoming Mayor in all aspects of the office of the Mayor and said outgoing Mayor shall not appoint, hire, remove, terminate, discipline, promote, demote or transfer any officer, Department Head, assistant Department Head, commission or committee members, or employee of the City.

## **SECTION 5. MINORITY REPRESENTATION.**

Not more than eight (8) members of the Common Council, not more than six (6) members of the Board of Education, not more than one (1) Registrar of Voters, not more than two (2) members of the Board of Assessment Appeals. and not more than four (4) members and not more than two (2) alternate members of the Planning and Zoning Commission may be members of the same political party at any time.

## **SECTION 6. ELECTIONS, VOTING DISTRICTS.**

The provisions of the General Statutes relating to municipal elections shall govern the conduct of all elections held under the provisions of this Charter except as otherwise provided herein. The Common Council shall set the boundaries of each voting district and at any time may, by Ordinance, alter the boundaries of said districts or establish additional districts.

## **SECTION 7. ELIGIBILITY.**

No person shall be eligible for election to any City office who is not at the time of

election a resident of said City and any person ceasing to be a resident or Elector of said City shall thereupon cease to hold elective office in the City.

## SECTION 8. VACANCY IN ELECTIVE OFFICE.

- A. Permanent Vacancy.** A permanent vacancy in any elective office shall occur by way of death or resignation of the office holder or as otherwise provided by Law.
- B. Voluntary Temporary Vacancy: Office of the Mayor<sup>[S11]</sup><sup>20</sup>.** A voluntary temporary vacancy in the Office of the Mayor may occur in the following manner:
1. Notification by the Mayor to the **President<sup>[S12]</sup>** and members of the Common Council of a temporary vacancy.
  2. Termination of above temporary vacancy in the Office of the Mayor shall be by notification by the Mayor to the President of the Common Council of such termination.
- C. Involuntary Temporary Vacancy: Office of the Mayor.** An involuntary temporary vacancy in the Office of Mayor may occur in the following manner:
1. In the event of the Mayor's inability to carry out the duties of the Office of Mayor by reason of physical and/or mental disability, the Common Council shall, upon unanimous vote of the Common Council at a regular or special meeting duly warned for that purpose, cause the Mayor to submit to examination by two physicians licensed to practice medicine in the State of Connecticut who shall submit written reports to the City/Town Clerk as to the ability of the Mayor to carry out the duties of the Office of Mayor. If such examination substantiates the Mayor's inability to carry out the duties of the Office of Mayor, the City/Town Clerk shall then declare a temporary vacancy.
  2. Termination of said temporary vacancy shall be confirmed by two physicians licensed to practice medicine in the State of Connecticut that the Mayor is physically and/or mentally able to carry out the duties of the Office of Mayor who shall submit reports to the City/ Town Clerk who shall notify the **President<sup>[S13]</sup>** and members of the Common Council of the Mayor's ability to resume **office<sup>[S14]</sup>**<sup>21</sup>.
- D. Permanent Elected Office Vacancies (with the exception of Mayor)<sup>22</sup>.** Except for vacancies in the Office of the **Mayor<sup>[S15]</sup>**, the Common Council, at a regular or special meeting duly warned for that purpose and next following a

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<sup>20</sup> Modification of Chapter II, Sec. 8.B (replacement of Deputy Mayor with President of the Common Council).

<sup>21</sup> Modification of Chapter II, Sec. 8.C.2 (replacement of Deputy Mayor with President of the Common Council).

<sup>22</sup> Modification of Chapter II, Sec. 8.D (Elimination of Deputy Mayor).

Declaration of Permanent Vacancy in an Elective Office, shall, by a Majority Vote of the Common Council, fill any such vacancy. Such appointee shall be a member of the same political party as the predecessor in said office and shall serve the remainder of the term of office of the Elected Official whose position he/ she has been appointed to fill.

**E. Permanent Vacancy in the Office of the Mayor.**

1. **The First Thirty-Six (36) Months of the Term of Office: Special Election.** In the event of a permanent vacancy in the Office of the Mayor during the first thirty-six (36) months of the term to which the Mayor was elected, a Special Election to fill said vacancy shall be called by the Common Council at a regular or special meeting duly warned for that purpose and following a Declaration of Permanent Vacancy in the Office of the Mayor.
2. **The Last Twelve (12) Months of the Term of Office: Succession by the President of the Common Council<sup>23</sup>.** The President of the Common Council<sup>[S16][S17]</sup> shall assume the Office of the Mayor in the event of a permanent vacancy during the last twelve (12) months of the Mayor's term and the President shall serve as Mayor until 12:00 Noon the Tuesday following the next Biennial Election.
3. **Simultaneous Vacancy of the Office of Mayor and President of the Council<sup>24</sup>[S18][S19].** In the event of permanent simultaneous vacancies in the offices of Mayor and President of the Council, the President Pro Tempore of the Council shall assume the position of interim Mayor either until the special election called by the Common Council, if such vacancies occur during the first thirty-six (36) months of the term, or until a special Council meeting called within ten (10) Days to elect a President if such vacancies occur during the last twelve (12) months of the term. [Amended 11-4-2014<sup>[S20]</sup>]

**F. Declaration of Vacancy<sup>25</sup>[S21][S22].** A declaration of vacancy in any office shall be made by the Mayor or, in the Mayor's absence, the President of the Common Council upon written notification of such vacancy from the City/Town Clerk, which notice to the Mayor or, in the Mayor's absence, to the President of the Common Council, shall be made forthwith.

**SECTION 9. SPECIAL ELECTIONS.**

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<sup>23</sup> Modification of Chapter II, Sec. 8.E.2 (replacement of Deputy Mayor with President of the Common Council).

<sup>24</sup> Modification of Chapter II, Sec. 8.E.3 (election of President of Common Council in the event of vacancy in office).

<sup>25</sup> Recodification of Chapter II, Sec. 8.G to F (election of President of Common Council in the event of vacancy in office).

The Common Council shall call and warn Special Elections when required by any provision of the Connecticut General Statutes.

## **SECTION 10. CONFLICT OF INTEREST AND ETHICS<sup>26</sup>[S23].**

- A. Statement of Purpose<sup>27</sup>.** Public office is a public trust. The trust of the public is essential for government to function effectively. Public policy developed by Officials affect every citizen of the municipality, and it must be based on honest and fair deliberations and decision. This process must be free from threats, favoritism, nepotism, undue influence, and all forms of impropriety so that the confidence of the public is not eroded. By setting forth this Statement of Purpose, the City of Middletown seeks to articulate a policy that will continually strive to maintain and increase the confidence of our citizens in the integrity and fairness of their government. Public Officials and employees must discharge their duties impartially so as to assure fair competitive access to government procurement by responsible contractors. In turn, those contractors should conduct themselves in such a manner as to foster public confidence in the integrity of the competitive process. In all cases, the reality and appearance of impropriety should be addressed by the Conflict of Interest Policy and Ethics Ordinance.
- B. Conflict of Interest Policy and Ethics Ordinance.** The City shall adopt a Code of Ethics, by Ordinance (“Ethics Code”) <sup>28</sup>. The Ethics Code shall cover all Officials and employees of the City, whether elected or appointed, paid or unpaid, and individuals and entities seeking to and conducting business with the City. The purpose of the Ethics Code is to establish suitable ethical standards by prohibiting acts or actions incompatible with the discharge of their public duties and the best interests of the City, and by directing disclosure of private financial interest or personal interest in matters affecting the City by such elected and appointed Officials or employees as well as such individuals and entities seeking to and conducting business with the City. The Ordinance shall designate an Official to provide all Public Officials and employees of the City with copies of the provisions of this section of the Charter and the implementing Ordinances and policies enacted hereunder, upon the commencement of their public service and/or employment.
1. **Comment and Review by Board of Ethics<sup>29</sup>.** The Council shall enact a Code of Ethics by Ordinance (and/or amendments thereto) following public review and comment by the Board of Ethics, in a manner consistent with the provisions of this Charter.

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<sup>26</sup> Modification of Chapter III, Sec. 9

<sup>27</sup> NEW (2021).

<sup>28</sup> The first sentence of subsection B is a recodification of the first sentence of current Chapter III, Sec. 9. Editor's Note: See Ch. 40, Code of Ethics.

<sup>29</sup> NEW (2021)

2. **Recusal**<sup>30</sup>. The Official or employee filing a disclosure under this Charter or Ordinance with the City/Town Clerk shall refrain from voting, participating or acting on matters which are the subject of such disclosures.
3. **Violation**<sup>31</sup>. In addition to any remedies or penalties set forth in the Ordinance effectuating this provision of the Charter, any finding of a violation by the Board of Ethics, as set forth in the Code of Ordinances:
  - a. shall render any action, including but not limited to any contract or agreement involved voidable at the option of the City;
  - b. may result in the discipline of Officials and employees in accordance with the provisions of this Charter and Ordinances; and,
  - c. may result in disqualifying individuals or entities from engaging in business with the City for a period of time to be established by Ordinance.

**C. Conflict of Interest and Corrupt Practices**<sup>32</sup>. No Official shall violate the provisions of the General Statutes, this Charter or Ordinances pertaining to conflicts of interest and corrupt practices. The Ordinance required by this Charter shall define and set forth the parameters of conflicts of interest and corrupt practices.

## **SECTION 11. REMOVAL OF DEPARTMENT HEADS AND APPOINTED OFFICIALS**<sup>33</sup>[S24].

**A. Removal of a Department Head**<sup>34</sup>[S25]. The Mayor shall have the power to remove any Department Head for cause but, in no case, may any Department Head be removed for political reasons. In the event of dismissal of any Department Head, the Mayor shall notify said Department Head in writing of such action and the reasons therefore not more than one (1) month prior to the effective date of such dismissal.

1. The applicable provisions of the General Statutes shall be taken into consideration with regard to the removal proceedings of the City/Town Clerk<sup>35</sup>, Chief of Police, Fire Chief, Fire Marshal, Building Official and any other Officials designated for protection by the General Statutes<sup>36</sup>.

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<sup>30</sup> NEW (2021).

<sup>31</sup> NEW (2021).

<sup>32</sup> NEW (2021).

<sup>33</sup> NEW (2021)

<sup>34</sup> Recodification of Chapter V, Sec. 4.

<sup>35</sup> At the time the revised Charter C.G.S. § 7-22 entitled "Removal of town clerks" applied.

<sup>36</sup> NEW (2021).

2. Notwithstanding the grounds for cause set forth herein, the Mayor shall have the power to remove any Appointed Official who serves a term coterminous with the Mayor (as specifically set forth in this Charter and any Ordinance creating the applicable Department); unless otherwise provided for in this Charter or by Law<sup>37</sup>.

**B. Removal of Appointed Commission and Committee Members<sup>38</sup>.** Unless otherwise set forth in the General Statutes or this Charter, the Mayor may initiate proceedings before the City Council to remove a member of any appointed Board, Commission, or relevant position or “panel of alternates” for any of the following reasons:

1. misconduct in the performance of duties;
2. persistent absence from three (3) consecutive meetings, without good cause shown, upon recommendation of the Chair of or Department Head associated with said commission<sup>39</sup>;
3. conviction of a felony while in office<sup>[S26]</sup>;
4. conviction of a misdemeanor which would undermine the public confidence in the member’s ability to perform the duties of office.

Rules of Procedure for the removal of said member, and additional grounds for removal, shall be set by Ordinance.

## **SECTION 12. REMOVAL OF ELECTED OFFICIALS<sup>40</sup>[S27].**

- A.** An Elected Official may be removed from office, for cause, by the Common Council by a vote of two-thirds (2/3<sup>rds</sup>) of the entire membership of the Council; subject to any applicable provisions of the General Statutes.
- B. Recitation of Charges.** No such Elected Official of the City (“charged party”) may be removed except upon charges, which shall be proffered following a Majority Vote of the Common Council<sup>[S28]</sup>. Removal may not occur in the absence of a hearing thereon before a plenary session of the Council.
- C. Notice.** Written notice by the Council of the charges and time and place of hearing shall be given to the charged party at least fifteen (15) Days prior to such hearing. Said notice shall either be (1) mailed to the charged party by registered or certified mail, in each case, return receipt requested and postage prepaid or national recognized overnight courier, with receipt and all fees prepaid; or, (2)

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<sup>37</sup> NEW (2021).

<sup>38</sup> Modification of Chapter VIII, Sec. 4. Current language: “A member of any appointed Commission or Committee, who shall be absent therefrom for three consecutive meetings without good cause shown, may, upon the recommendation of the chairman or director thereof and upon the approval by the appointing authority, be ordered removed therefrom by the Mayor.”

<sup>39</sup> Current standard under chapter VIII, Sec. 4.

<sup>40</sup> NEW (2021)

addressed to an officer authorized to serve legal process with a direction to make personal service upon the charged party of the same, within the time prescribed.

**D. Grounds of Cause.** Such charges shall be for:

1. A finding by the Board of Ethics of neglect or dereliction of official duty or a violation of (a) the conflict of interest policy and ethics provisions of this Charter and/or Ordinances; or, (b) any other provisions of Law pertaining to unethical conduct, corrupting influence or illegal activities (including violations of federal, state or local law);
2. Conviction of a felony;
3. Conviction of a lesser crime involving fraudulent or dishonest conduct;
4. Determination of physical or mental incapacity to serve, based upon the best evidence as presented by competent authority;
5. Determination of incompetence based upon the best evidence as presented by competent authority;
6. Documented poor performance of an Appointed Official kept in the normal course of business;
7. Habitual absence from office, as may be defined by Ordinance;
8. A delinquency materially affecting the person's general character or fitness for office; or,
9. Such actions as may be set forth in the Ordinance by the Council.

**E. Right to Counsel**<sup>41</sup>. Such Elected or Appointed Official shall have the right to be represented by counsel at the hearing, to present evidence and testimony personally and through witnesses, and to cross-examine witnesses.

**F. Public Hearing**<sup>42</sup>. Such hearing shall be open to the public and transcribed, except as otherwise permitted by Law.

**G. Appeal.** Any such Elected or Appointed Official may, within thirty (30) Days from the date when the decision to remove is taken following such hearing, take any appeals as may be permitted by Law.

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<sup>41</sup> Modification of 1983 Charter section 3-14 (first paragraph, fourth sentence).

<sup>42</sup> Modification of 1983 Charter section 3-14 (first paragraph second and fifth sentences).

## CHAPTER III: THE COMMON COUNCIL

### SECTION 1. LEGISLATIVE POWER AND AUTHORITY.

The Common Council shall be the legislative body of the City<sup>43</sup> and, as such, the legislative power and authority shall vest in the Council. No enumeration of powers set forth in this Charter shall be deemed to limit the legislative authority of the Council as provide for in the General Statutes.

### SECTION 2. ORGANIZATION OF COUNCIL

- A. Date of Organization.** The Members of the Common Council shall meet to organize no later than ten (10) Days following the commencement of its term of office.
- B. Officers of the Council: President and President Pro Tempore<sup>44</sup>[S29].** Effective at the Date of Organization following the election of November 2023, the members shall choose one of its members to be President of the Common Council and another to be President Pro Tempore of the Council, each for the term of office.
1. Such President shall preside over all meetings of the Council and perform such other duties consistent with the office as may be imposed by the Council, but such President shall not vote more than once on any question.
  2. The President shall act as Mayor during any temporary vacancy in the Office of Mayor or until a permanent vacancy in the Office of Mayor has been filled as provided for in Chapter II, Section 8 of this Charter<sup>45</sup>[S30].
  3. During the President's absence or disability, the President's duties shall be performed by the President Pro Tempore.
- C. Stipend<sup>46</sup>.** Each such member shall receive such stipend as may be provided by Law.
- D. Staff.** The Common Council may appoint such staff as it deems necessary to assist it in the performance of its duties<sup>47</sup>.
1. **Council Clerk[S31]<sup>48</sup>.** There shall be a Council Clerk, recommended by the President and approved by the Council and who shall keep for public inspection copies of every proposed Ordinance and a record of all

<sup>43</sup> Recodification and modification of Article II, Sec. 4.B.

<sup>44</sup> NEW (2021)

<sup>45</sup> Derived from Article IV, Sec. 2.A.

<sup>46</sup> Retained from Article III, Sec. 1.

<sup>47</sup> Modification of Chapter III, Section 2.B

<sup>48</sup> NEW (2021). Note: The position is referenced in the current Charter. The intent is to eliminate any confusion about the chain of command and responsibility of the Council Clerk to the Council President and members of the Council.

proceedings including all roll call votes. The position of the Council Clerk shall be included in the Classification Plan of the City in accordance with the provisions of Chapter X of this Charter; however, shall be under the supervision of the President of the Council.

- a. All records so kept shall be authenticated by the signature of such Council Clerk or the President of the Council or both.
- b. The Council Clerk shall be responsible for the publication of such notices of hearing and publication of Ordinances, as may be necessary, and perform such other duties as the Council may determine.

**Transition Provision**<sup>[S32]</sup>. The Council Clerk in office at the effective date of this provision shall remain in office and retain all rights and privileges that pertain to such classification that is currently include under Chapter X of this Charter and any collective bargaining agreement pertinent to said Clerk. For the remainder of the term following adoption of the revised Charter the Council Clerk shall report to the Majority Leader<sup>[S33]</sup>.

2. **Legal Assistance**<sup>49</sup>. By a vote of nine (9) members and in consultation with the Office of the General Counsel, the Common Council may retain outside counsel for advice on individual matters<sup>[S34]</sup>. In furtherance of this authority, the Council may also provide an appropriation for hiring its own counsel in the annual budget or a transfer, if required<sup>[S35]</sup>.
3. **Parliamentarian**<sup>[S36]</sup><sup>50</sup>. The President may appoint a parliamentarian.

### SECTION 3. MEETINGS OF THE COMMON COUNCIL AND PUBLIC PARTICIPATION.

A. **Rules of Council**. The Common Council shall determine its own rules of procedure<sup>51</sup>, within forty-five (45) Days following the election of members, which rules may be amended from time to time<sup>52</sup>. The rules of the prior Council term shall apply until such rules are adopted<sup>53</sup>.

1. **Council Commissions**<sup>54</sup>. The Common Council shall establish as many Councilmanic Commissions as it shall deem necessary at any time to carry out the City's business. Each such Commission shall keep records of its proceedings and provide such information as may be requested by the Common Council. All such Councilmanic Commissions shall be advisory in nature, and shall have no authority to direct the administration

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<sup>49</sup> NEW (2021)

<sup>50</sup> NEW (2021). Note: The intent was to replace the role of the Corporation Counsel with a parliamentarian.

<sup>51</sup> Recodification of Chapter III, Sec. 2.C (first clause).

<sup>52</sup> NEW (2021) (second clause).

<sup>53</sup> NEW (2021)

<sup>54</sup> Recodification of Chapter III, Sec. 2.D.

of any Department.

2. **Quorum**<sup>55</sup>. A majority of the members of the Common Council shall constitute a quorum. In determining a quorum, President of the Council shall be counted. The presiding officer shall be allowed to vote on any matters as a Council Member but will have no more than one (1) vote<sup>[S37]</sup>.
  3. **Regular Meetings**<sup>56</sup>. Regular meetings of the Common Council shall be held on the first Monday of every month. If said Monday shall fall upon a legal holiday, as provided in the General Statutes, the Council shall meet on the Tuesday immediately following.
  4. **Special Meetings**<sup>57</sup>. Special meetings may be called by the Mayor or by the President of the Common Council<sup>[S38]</sup>, or upon a call signed by not fewer than five (5) members of the Common Council.
- B. Council Action in Accordance with Rules.** No appropriation, Resolution, Order, Ordinance, report or other item of business shall be placed on any Common Council agenda unless it is filed with the Council Clerk in accordance with the rules established by the Common Council or a waiver of the rules to allow the inclusion of any matter shall have been approved by nine (9) Council Members.
- C. Public Comment**<sup>58</sup><sup>[S39]</sup>. Subject to the rules of the Council, the public shall have the right to address the Council at any Council meeting on any item on the agenda for the Council meeting at which they speak and may address the Council on non-agenda matters of general public concern only in accordance with provisions established by the Council for such input.

#### **SECTION 4. AUTHORITY OF THE COMMON COUNCIL**<sup>59</sup>.

- A. Powers and Duties.** The Common Council shall have the powers and duties which, on the effective date of this Charter, were conferred by Law upon Officials, Boards and Commissions existing immediately prior to said date, excepting, as otherwise provided in, or inconsistent with this Charter and amendments thereto, or established by General or Special Acts of the General Assembly.
- B. Powers, Authority and Duties: Majority Vote Present and Voting.** Said Council shall have the power, authority and duty by a Majority Vote of the Common Council<sup>[S40]</sup> to make such bylaws and Ordinances and to adopt such Resolutions and Orders as are deemed necessary for the conduct of the City's business, subject to the provision for hearings as provided herein, and not inconsistent with the Laws of the State of Connecticut and/or of the United

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<sup>55</sup> Recodification and modification of Chapter III, Sec. 3.C.

<sup>56</sup> Recodification of Chapter III, Sec. 3.A(2).

<sup>57</sup> Recodification and modification of Chapter III, Sec. 3.A(3).

<sup>58</sup> Modification of Chapter II, Sec. 4.E (2021).

<sup>59</sup> Amended 11-4-2008.

States:

1. to levy taxes as provided herein; to regulate the borrowing of money by the City;
2. to adopt a budget for each fiscal year subject to the provisions herein; to authorize the issue of such bonds or notes as are required for the conduct of the City's business and other purposes as provided herein;
3. to appropriate such funds as may be required for the proper conduct of the City's business;
4. to determine and appropriate such salaries, expenses, compensation or other sums to be paid to all Elected Officials, including the stipend to be received by members of the Common Council, provided such salaries, expenses, compensation or other sums shall not take effect before 12:00 Noon the Tuesday following the next biennial municipal election;
5. to review and approve all contracts, including agreements to settle litigation against the City, or those memoranda of agreement with collective bargaining units that meet the following criteria, which create a financial responsibility, on the current or any future City budget, which have not previously been approved by the Council through the budgetary process and authorize the Mayor to sign the same on behalf of the City; and,
6. it shall have such other powers appropriate to the exercise of its authority as the legislative body of the City and such powers and duties which, on the effective date of this Charter, were conferred by Law.

- C. Appropriations for Fire Services.** In addition to all other powers, the Common Council shall have the power to make appropriations for all things necessary or desirable to protect the City from fire, including but not limited to, appropriations for the Middletown Fire District, the South Fire District of the City of Middletown and the Westfield Fire District of the City of Middletown.

**SECTION 5. BYLAW, ORDINANCE, BUDGETARY RESOLUTION OR APPROPRIATION; WHEN AND HOW IN EFFECT; CERTIFICATE OF CITY/TOWN CLERK.**

- A. Effective Date of Council Actions.** No bylaw, Ordinance, budgetary resolution or appropriation passed by the Common Council shall take effect and be enforced until fifteen (15) Days after such bylaw, Ordinance or a summary thereof, budgetary resolution, or supplemental appropriation shall have been published in accord with the Public Notice requirements of this Charter. Resolutions and Orders shall be effective upon passage.
- B. Filing of Bylaws, Ordinances and Orders.** Prior to the Public Notice of a summary, a copy of the full text of the bylaw, Ordinance or Order shall be foiled in accordance with the Public Notice requirements of this Charter and be

available for public inspection. The summary shall include the title and a general statement of the subject matter of the bylaw, Ordinance or Order and shall state that a copy of the full text is on file in the Office of the City/Town Clerk and on the City's website.

- C. **Certificate of the City/Town Clerk.** The certificate of the City/Town Clerk, upon the records of the Common Council, that such bylaw, Ordinance, Order, budgetary resolution or supplemental appropriation has been published in accord with the Public Notice provisions of this Charter and filed shall be prima facie evidence of such filing and publication in any suit or proceeding. Upon such publication, said Clerk shall make such certificate and thereupon, after the lapse of such fifteen (15) day period, such bylaw, Ordinance, Order, budgetary resolution or supplemental appropriation shall be in effect subject only to the provisions of this Charter referring to referenda.

## **SECTION 6. ORDINANCE FOR THE CREATION, MERGER, OR ELIMINATION OF ANY DEPARTMENT OR AGENCY.**

Any Ordinance providing for the creation, merger or elimination of the departments, or agencies of City government shall be voted upon at two different meetings of the Common Council, by a Majority Vote of the Common Council<sup>[s41]</sup>, which shall be held at least thirty (30), and not more than ninety (90) Days apart, each of which shall be preceded by a Hearing Notice. No such Ordinance shall become effective unless adopted by the affirmative vote of nine members of said Council at each such meeting.

## **SECTION 7. REFERENDA AND INITIATIVE<sup>60</sup>.**

- A. **REFERENDA.** If within the period of fifteen (15) Days after publication in some newspaper with general circulation in the City of Middletown of such bylaw, Ordinance, or a summary thereof, budgetary resolution, or supplemental appropriation a written petition, containing the signatures of at least five (5%) percent of the Electors of the City and protesting any such enactment by the Common Council shall be filed with the City/Town Clerk, such bylaw, Ordinance, budgetary resolution, or supplemental appropriation shall be suspended. The City/Town Clerk shall, within seven (7) Days excluding Saturdays, Sundays and Municipal holidays thereof, make an examination of such petition and attach thereto a certificate that the same is sufficient or insufficient under the requirements of this Section. If the petition shall be found to be insufficient it shall be so certified by the City/Town Clerk. If the petition shall be found to be sufficient, the City/Town Clerk shall, within five (15) Days excluding Saturdays, Sundays and Municipal holidays, submit the same to the Common Council, which shall within five (5) Days excluding Saturdays, Sundays and Municipal holidays thereof, reconsider the measure. If it shall not be entirely repealed, the Council shall, within five (5) Days excluding Saturdays, Sundays and Municipal holidays thereof, submit it to a vote of the Electors affected by it at either a general or special election to be called for that purpose and in any event to be

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<sup>60</sup> Amended 11-4-2008.

held no earlier than thirty and no later than sixty (60) Days. At such election all votes shall be taken by ballot and check list at the regular polling places. The Common Council shall set the hours of voting in any referendum and the Registrars of Voters shall prepare the polling places and the City/Town Clerk shall prepare the ballots. A simple majority vote of those voting in such referendum shall determine the matter.

- B. INITIATIVE.** Any Elector of the City may prepare a Petition regarding any matter of public interest, except for the approval of a bond or the appropriation of revenue, to be submitted for determination by the Electors of the City and/or adoption as a Resolution or Ordinance by the Electors of the City in accordance with the provisions of this Charter to be placed on that year's November ballot. The Petition shall be filed with the City/Town Clerk in typewritten form, provided the wording of the Petition shall first be reviewed by the City/Town Clerk, in consultation with the General Counsel who, within seven (7) business days presents a matter within the public interest and has been correctly worded in such a manner as to clearly express its meaning and intent. If the wording and subject matter of a Petition fairly and accurately presents such a public issue, it shall be returned to the individual who filed the petition for the obtaining of signatures commencing on July 1 in accordance with the Laws of the State of Connecticut regarding the same. The petition issue shall only be voted upon at the next regular November election if copies of the Petition containing the names of at least ten (10%) percent of the Electors of the City are filed with the City/Town Clerk on or before sixty (60) Days prior to said November election date. The results of the balloting on said Petition shall not be binding unless approved by a simple majority of those voting on the Petition. No enactment passed pursuant to initiative shall be subject to referendum.

## **SECTION 8. INVESTIGATIONS.**

The Common Council shall have the power to investigate any and all Departments of the City.

**Transition Provision Pertaining to the Termination of the Office of the Deputy Mayor and Corporation Counsel**<sup>[S42]</sup>. The term of office of the Deputy Mayor and Corporation Counsel shall be terminated at 11:59:59 P.M. on the Monday following the certification of election of November 2023. The Deputy Mayor shall continue to perform the functions of the President of the Council, as set forth in this revised Charter for the remainder of the term of office. The Corporation Counsel shall continue to serve the Common Council for the remainder of the term of office and shall report directly to the Majority and Minority Leaders of the Council.

# CHAPTER IV: DUTIES AND POWERS OF ELECTED OFFICIALS AND OTHER CITY OFFICIALS

## SECTION 1. MAYOR'S OFFICE<sup>61</sup>.

- A. Term of Office.** Commencing with the first municipal election following the passage of this charter provision, the Mayor's term of office shall be four (4) years.
- B. Mayor's Office and Staff<sup>62</sup>.** The Mayor's Office shall consist of the Mayor and the following staff: a Chief of Staff<sup>[S43]</sup> and such other Staff as the Mayor may deem necessary<sup>[S44]</sup>. All such staff of the Mayor's Office shall be appointed by the Mayor and may be removed by the Mayor and shall not be included in the Classified Service. All classified employees working in the Mayor's Office shall not be considered to be part of the Mayor's Staff as defined in this Section.
- C. Compensation<sup>[S45]</sup><sup>63</sup>.**
- 1. Baseline Compensation.** The Mayor shall be compensated in an amount equal to the baseline compensation as contained in the budget of the City for the Fiscal Year 2021-2022; ("Baseline Compensation").
  - 2. Periodic Increase.** Said Baseline Compensation shall be periodically increased, in an interval as set forth in Section 1.C,3, below, by an amount equal to the percentage increase for the twelve (12) month period ending on November 30<sup>th</sup> as measured by the Consumer Price Index for All Urban Wage Earners and Clerical Workers, as published bimonthly by the United States Department of Labor, Bureau of Labor Statistics, or, in the event that publication of such index is terminated, any successor or substitute index, appropriately adjusted, acceptable to the Common Council.
  - 3. Permitted Intervals for Increase.** The increase in compensation shall only be permitted in the intervals set forth by Article XIX of the Constitution of the State of Connecticut<sup>64</sup>.

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<sup>61</sup> Amended 11-4-2014.

<sup>62</sup> Modification of Chapter IV, Sec. 1.B (Change "Administrative Assistant" to "Chief of Staff" and eliminate "Corporation Counsel").

<sup>63</sup> Modification of Chapter IV, Sec. 1.C

<sup>64</sup> ARTICLE XIX. Section 2 of the article eleventh of the constitution is amended to read as follows: Except as provided in this section, neither the state nor any political subdivision of the state shall pay or grant to any elected official of the state or any political subdivision of the state, any compensation greater than the amount of compensation set at the beginning of such official's term of office for the office which such official holds or increase the pay or compensation of any public contractor above the amount specified in the contract. The provisions of this section shall not apply to elected officials in towns in which the legislative body is the town meeting. The compensation of an elected official of a political subdivision of the state whose term of office is four years or more may be increased once after such official has completed two years of his term by the legislative body of such political subdivision. The term "compensation" means, with respect to an elected official, such official's salary, exclusive of

## SECTION 2. DUTIES AND POWERS OF THE MAYOR<sup>65</sup>.

- A. Full time Chief Executive Officer.** The Mayor shall be the chief executive officer of the City and shall devote full time to the duties of the office. Full time shall mean primary occupation.
- B. Voting Member of All City Boards, Agencies and Commissions.** Except as otherwise provided by Law, the Mayor shall be a voting member of all Boards and Commissions appointed by the Mayor. As such, the Mayor shall be entitled to cast one (1) vote.
- C. Administration of Departments, Agencies and Offices.** Except as otherwise provided by Law, the Mayor shall be directly responsible for the administration of all Departments and offices, in charge of persons or Boards and Commissions appointed by the Mayor and shall supervise and direct the same, with the exception of employees of the Common Council<sup>[S46]</sup>.
- D. Duties.** The Mayor shall:
1. see that all Laws, including the Ordinances, governing the City are faithfully executed;
  2. make periodic reports to the Common Council and shall attend and participate in its meetings as provided by this Charter;
  3. prepare and cause to be made available to the public, as soon as possible after the close of the fiscal year, an annual City report which shall include a summary of the activities of each City Department during the preceding year and a statement of the departments' goals for the next year;
  4. recommend to the Council such measures as the Mayor may deem necessary or expedient including, but not limited to, measures to organize or reorganize the Departments and Agencies of the City;
  5. keep the Council fully advised as to the financial condition of the City;
  6. prepare and submit to the Council an annual budget and such additions, deletions or amendments to the separate budgets provided for in Chapter VI, Section 2;
  7. negotiate for the purchase of real estate and take options on such real estate in behalf of the City, provided that the Mayor shall expend no more than the amount set by Ordinance for any one option; and,
  8. exercise such other powers and duties as may be required of the Mayor by Ordinance, Resolution or Order of the Council not inconsistent with this Charter.

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reimbursement for necessary expenses or any other benefit to which his office would entitle him. Adopted November 24, 1982.

<sup>65</sup> Amended 11-4-2008.

## **E. Interactions with the Common Council.**

1. **Diminution or Augmentation of Mayoral Authority.** The Council shall not diminish by Ordinance, vote or otherwise, the powers and duties of the Mayor, except those powers and duties imposed on the Mayor by the Council under provisions of this Section.
2. **Contract Signing Authority.** The Mayor shall have the power to sign contracts approved by the Common Council, deeds and other instruments or documents and the Mayor shall have the power to administer oaths.
3. **Presiding Officer of the Common Council: Voting Privileges in the event of Tie Vote.** The Mayor shall remain the presiding officer of the Common Council and, as such, shall have the power to resolve a tie vote of the Common Council<sup>[s47]</sup> until 11:59:59 P.M. on the Monday following the certification of election of November 2023.
4. **Veto Authority.** The Mayor may veto any Ordinance or appropriation passed by the Common Council and, in the event the Mayor shall veto any such Ordinance or appropriation, the Mayor shall return the same to the Common Council within five (5) Days, excluding Saturdays, Sundays and Municipal holidays, following the adoption of such vote with a statement in writing of the Mayor's objections thereto. If the Common Council, by a vote of two-thirds (2/3<sup>rds</sup>) of the members present and voting at a special meeting called for that purpose within ten (10) Days, excluding Saturdays, Sundays, and Municipal holidays, following receipt of the Mayor's veto, shall readopt said Ordinance or appropriation, it shall thereupon be effective as so readopted<sup>[s48]</sup>.

## **SECTION 3. CITY OFFICIALS.**

- A. **Appointment by Mayor and Confirmation by the Common Council.** The following Officials shall be appointed by the Mayor and confirmed by the Common Council: (i) City/Town Clerk; (ii) Tax Collector; and (iii) Assessor<sup>[s49]</sup><sup>66</sup>. Each said Official shall have the powers and duties vested in each said officer by the Laws of the State of Connecticut and pursuant to Ordinances adopted by the Common Council. They shall devote full time to the duties of their respective offices. Full time shall mean primary occupation.
- B. **Additional Officials Established by Ordinance: Appointment and Confirmation.** There shall be such other Officials as may be deemed necessary by the Mayor and the Common Council and whose duties and powers shall be defined by Ordinance. All such Officials shall be appointed by the Mayor and confirmed by the Common Council.
- C. **Removal Authority of the Mayor.** The Mayor shall have the power to remove or discipline non-elected Officials as provided for in Chapter V, Section 4.

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<sup>66</sup> Modification of Chapter IV, Sec. 3.A(iii).

#### **SECTION 4. REGISTRARS OF VOTERS, BOARD OF TAX REVIEW.**

The power and duties of the Registrars of Voters and members of the Board of Assessment Appeals shall be as provided by Law and not inconsistent with this Charter and may be provided by ordinance.

#### **SECTION 5. COMMON COUNCIL TO PERFORM DUTIES OF SELECTMEN EXCEPT AS OTHERWISE PROVIDED.**

All powers and duties had and performed under the Law by the Selectmen of any town, except such as are imposed upon them by the Constitution and the General Statutes relative to the admission of persons to the privileges of Electors, shall be had and performed by the Common Council or as otherwise provided herein. The Common Council shall provide for the performance of all such functions by Ordinance, bylaw, or otherwise, as it shall determine.

#### **SECTION 6. BOARD OF EDUCATION; ELECTION; TERM<sup>[S50]</sup>.**

There shall be a nine (9) member Board of Education which shall have such duties and powers as may be imposed by Law. Members of such Board, shall be elected in place of the members whose terms expire, each for a term of four (4) years. Each Elector may vote for the full number of members to be elected to each term and the candidates receiving the greatest number of votes shall be elected, except that when the number of members of any one political party who would be elected without regard to Section 9-167a of the General Statutes exceeds the maximum number, as determined by said Section, then only the candidates of such political party with the highest number of votes up to the limit of such maximum shall be elected. The next highest ranking candidates, not from such political party, shall be elected, up to the number of places to be filled in such election.

#### **SECTION 7. OFFICE OF THE GENERAL COUNSEL<sup>[S51]</sup><sup>67</sup><sup>[S52][S53]</sup>.**

There shall be an Office of the General Counsel. The General Counsel shall serve as the Chief Legal Officer of the City and the Department Head for the Office of the General Counsel. The General Counsel shall be appointed by the Mayor and approved by the Common Council. The General Counsel and the members of the Office of the General Counsel shall be members of the City's Classified Service.

#### **SECTION 8. CITY TREASURER<sup>[S54]</sup>.**

- A. The Duties of the City Treasurer.** There shall be a City Treasurer who shall have and exercise all the powers and duties prescribed for Treasurers of Towns and Cities by the General Statutes and additional powers and duties as may be prescribed by the Common Council.
- B. Termination of the Office of the City Treasurer.** The position of City Treasurer shall be terminated at 11:59:59 P.M. on the Monday following the

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<sup>67</sup> Modification of current Chapter IV, Sec. 8.

certification of election of November 2023. All references to the elected City Treasurer shall be deleted from this Charter thereafter and the duties of a treasurer shall be assigned to other officials of the City.

WORKING DRAFT LANGUAGE REVISIONS - 26 MAY 2021

WORKING DRAFT LANGUAGE REVISIONS - 26 MAY 2021

## CHAPTER V: DEPARTMENTS OF THE CITY

### SECTION 1. DEPARTMENTS ESTABLISHED.

- A. Powers and Purposes**<sup>68</sup>[S55]. In addition to the Departments specifically set forth in this Charter, the City, acting within the powers and duties enumerated in the General Statutes, any applicable Special Acts and this Charter may establish, by Ordinance, such Departments necessary to carry out and organize the functions of government. The express intent of this Charter is to afford the Mayor and the Common Council the ability to organize the government in order to achieve a balance of efficiency and service to the people of the City consistent with the provisions herein.
- B. Creation of Departments**<sup>69</sup>. All Departments of the City may, from time to time, be established by Ordinance. All employees of any Department shall be subject to the City of Middletown Personnel Rules and Classification Plan. The Common Council shall have the power to prescribe by Ordinance the powers, duties and privileges of each Department, not inconsistent with any of the provisions contained herein.
1. Each of these Departments shall be constituted to perform such functions and have such powers and duties as are imposed by the General Statutes, this Charter and Ordinances<sup>70</sup>.
  2. The Department Heads of each Department established by Ordinance shall be subject to the provisions of this Charter, Ordinances and Law generally applicable to Department Heads<sup>71</sup>.
  3. All Departments shall be entitled to office space provided by the City and shall remain open during such hours as the Mayor may direct<sup>72</sup>.
- C. Reorganization Plans**<sup>73</sup>.
1. The delineation of departmental categories in this Charter is advisory and may be altered pursuant to a reorganization plan proposed by the Mayor and approved by the Common Council. Accordingly, any departmental categories may be reorganized and Department Heads may be reassigned (unless otherwise prohibited by Law). The reorganization plan is subject to the limitation that all governmental functions set forth in this Charter shall continue to be provided to the residents of the City; unless such function was eliminated as the result of a repealed Federal or State mandate and not otherwise in the best interest of the City to continue.

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<sup>68</sup> NEW (2021).

<sup>69</sup> Recodification of Chapter V, Sec. 1.A.

<sup>70</sup> NEW (2021)

<sup>71</sup> NEW (2021)

<sup>72</sup> NEW (2021)

<sup>73</sup> NEW (2021)

Moreover, any reorganization plan shall include specific reference to the departmental function(s) set forth in this Charter that will be carried out in said reorganization and shall be accompanied by an opinion of the General Counsel verifying that the reorganized function complies with the Charter requirements.

2. Any internal departmental reorganization plan proposed by a Department Head, pertaining to non-budgetary matters, shall be forwarded to the Mayor for review, approval and final action, prior to announcement and implementation of the plan by the Department.

- D. Effect of Charter on Departments.** Every Department, Authority, Board, or Commission, existing on the effective date of this Charter, shall continue in existence as if established by Ordinance until merged or eliminated by Ordinance pursuant to Chapter III, Section 6 of this Charter.

## SECTION 2. DEPARTMENT HEADS<sup>[S56]</sup>.

- A. Appointment and Confirmation.** Each Department shall have a Department Head who shall be appointed by the Mayor and confirmed by the Common Council. Each such Department Head shall devote full time to the duties of office and shall be responsible to and report to the Mayor.

- B. Removal<sup>74</sup>.** The Mayor shall have the power to remove any Department Head for cause but, in no case, may any Department Head be removed for political reasons. In the event of dismissal of any Department Head, the Mayor shall notify said Department Head, in writing, of such action and the reasons therefore not more than one (1) month prior to the effective date of such dismissal.

- C. General Requirements<sup>[S57]</sup>.**

1. Each of these Departments shall be constituted to perform such functions and have such powers and duties as are imposed by the General Statutes, this Charter and Ordinances<sup>75</sup>.
2. **Qualifications and Authority of Department Heads<sup>76</sup>.** The job qualifications of all Department Heads, in addition to those enumerated in this Charter, by the General Statutes or Special Act shall be established by Ordinance following the recommendation of the Department Head responsible for personnel and human resources or as may otherwise be designated by Ordinance. Said job qualifications shall be prepared in accordance with nationally accepted professional standards and best practices in the applicable field and shall be reviewed and updated, if necessary, every four (4) years and whenever a Vacancy occurs in the position.

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<sup>74</sup> Recodification of Chapter IV, Sec. 6.

<sup>75</sup> NEW (2021)

<sup>76</sup> NEW (2021).

3. **Compensation**<sup>77</sup>. The salaries and compensation of all Officials, Department Heads and employees of the City shall be set by job description and Order or through the budget, except where otherwise fixed by the General Assembly or as otherwise covered by the Personnel Rules, collective bargaining agreement(s), or contract.
4. **Surety Bonds of Certain City Officials**<sup>78</sup>. The City shall purchase surety bonds for any position required to have a bond under state or federal law or for any position that the Risk Manager recommends should have a bond due to its duties and responsibilities.
5. **Position Titles**<sup>79</sup>. The position titles of the Department Heads set forth in this Charter reflect the title at the time of the adoption of this Charter. Titles may be changed; however, the functions and fiduciary obligations specifically set forth in this Charter shall not be altered.

### SECTION 3. ASSISTANT DEPARTMENT HEADS.

- A. **Creation of Position.** There shall be such assistant Department Heads as may be provided by Ordinance, who shall serve as assistant to the various Department Heads of the City.
- B. **Appointment and Confirmation.** Each assistant Department Head shall be appointed by the Mayor and confirmed by the Common Council.
- C. **Duties and Responsibilities.** Each such assistant Department Head shall be responsible to and report to the Department Head and shall devote full time to the duties and responsibilities of the Department. Each such assistant Department Head shall be removed or disciplined only in the same manner as Department Heads.

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<sup>77</sup> NEW (2021).

<sup>78</sup> NEW (2021).

<sup>79</sup> NEW (2021).

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## CHAPTER VI: FINANCE AND TAXATION

### SECTION 1. BUDGET<sup>80</sup>.

- A. Commencement of the Budget Process.** Except as otherwise provided herein, not later than January 1st of each year, the Mayor, or the Mayor's designate, shall provide all Departments, Boards and Commissions with forms for budgetary requests for the ensuing fiscal year.
- B. Mayor Transmits Proposed Fiscal Budget to the Common Council.** On or before April 1st the Mayor shall transmit a proposed *fiscal budget* to the Common Council.
- C. Contents of the Proposed Budget: Operating and Capital Budgets.** The *proposed budget* shall consist of an operating budget and a capital budget.
- 1. Capital Budget.** The capital budget shall consist of all funds necessary for any debt service payment needed during the fiscal year, including all payments for debt service incurred for the construction, renovation or improvement of any Board of Education buildings or property.
  - 2. Operating Budget.** The operating budget shall consist of all proposed expenditures for the fiscal year which are not part of the capital budget.
  - 3. Separate Budgets Not Included<sup>81</sup>.** The Annual Budget prepared by the Office of the Mayor shall not include the budgets of those Boards, Commissions and Agencies for which separate budgets are required by the General Statutes or Special Acts. All separate budgets shall be subject to the referendum provisions contained in this Charter.
  - 4. Application of Veto and Referenda to Entire Budget.** All provisions for veto and referenda of the budget shall apply only to the entire budget and neither the operating budget nor the capital budget shall be subject to veto or referenda separately.
- D. Public Hearing by the Common Council.** The Common Council shall, prior to April 30<sup>th</sup>, hold public hearings on the proposed budget.
- 1. Publication: Date of Hearing.** The Common Council shall cause such proposed budget to be published in accordance with the Public Notice provisions of this Charter and shall accompany such publication with a Hearing Notice, which hearing shall be at least two (2) Days after said publication. Upon such date, the Common Council shall meet to hear any parties interested in relation thereto, which meeting shall be held on or before April 30<sup>th</sup>.
  - 2. Hearing Participants.** At such hearings, all Electors and persons paying taxes or charges to said City shall have the right to be heard concerning any proposed budget item.

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<sup>80</sup> [Amended 11-4-2008]

<sup>81</sup> Recodification of Chapter VI Sec. 2.

**E. Modification of the Proposed Budget by the Common Council.** The Council shall have the power to add, delete, increase or decrease any item in said proposed budget.

**F. Final Action on the Proposed Budget by the Common Council**<sup>[SS8]</sup><sup>82</sup>.

**1. Notice Following Public Hearing on the Budget.** Following the Public Hearing and prior to Adoption of the Proposed Budget as set forth herein, the required notice and agenda for each meeting or proceeding shall be posted on the City's website and shall include information about how the meeting will be conducted and how the public can access it.

**2. Submission of Budget Amendments and Supplemental Materials.** Moreover, any supplemental materials relevant to matters on the post-Public Hearing agenda, including but not limited to amendments to the Proposed Budget (which shall be in writing) shall be submitted to the Common Council and posted to the City's website for public inspection a minimum of twenty-four (24) hours prior to the meeting. Said posting shall remain posted to the City's website for public inspection during and after the meeting.

**3. Disclosure and Transparency Requirements for Final Action on the Budget.** In the event the meeting of the Common Council is less than twenty-four (24) hours prior to the date for adoption of the Proposed Budget, all proposed amendments shall be in writing and shall be posted on the website prior to action by the Council. The Rules of the Council promulgated in accordance with Chapter III, Sec. 3.A of this Charter shall include procedures governing such amendments.

**G. Adoption of the Proposed Budget by the Common Council.** Not later than the 15<sup>th</sup> day of May of each year, the Common Council shall adopt a budget<sup>[SS9]</sup> and make appropriations therefor.

**1. Establishment of the Tax Levy**<sup>83</sup>. At the same time the Common Council shall approve the budget, it shall also fix the Tax Rate in Mills which shall be levied on the taxable property in the City as provided by Law. Said Tax shall be payable in two equal installments as shall be determined by the Common Council. Upon failure of any taxpayer to pay any installment of taxes within one (1) month after the date on which said installment is payable, the full amount of the total bill shall be due and payable and subject to such interest charges as are provided by Statute. Any property tax due the City of Middletown in an amount not in excess of one hundred dollars (\$100) shall be due and payable in a single payment.

**H. Mayoral Action**

**1. Veto authority of Mayor.** The Mayor shall have the power to veto, in

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<sup>82</sup> NEW (2021)

<sup>83</sup> Recodification of Chapter VI, Sec. 3.

writing, any addition, deletion, increase or decrease in said budget as voted by the Common Council provided that the Mayor then shall transmit said veto to the Common Council within five (5) Days following the adoption of said budget by the Common Council.

## **2. Legislative Action on Mayoral Veto.**

- a. **Override of Mayoral Veto.** If the Common Council, by vote of two-thirds (2/3<sup>rd</sup>s) of its entire membership at a Special Meeting held for that purpose, shall readopt the item or items vetoed within ten (10) Days of receipt of said veto, the Budget shall be effective as adopted.
  - b. **Failure to Override Mayoral Veto.** In the event the Common Council shall not readopt the item or items disapproved, then the budget shall be effective as modified by the veto.
- I. Referendum.** Within fifteen (15) Days following the passage of a budget, the electorate of the City shall have the power to challenge the budget by means of a referendum as provided in this Charter. The Common Council shall within ten (10) Days following any referendum adopt a budget in accordance with such determination. In the event of any additional Mayoral veto, or referenda, said Common Council shall proceed in like manner until a tax shall be levied and accepted to cover such budgets.
- J.** Such appropriations, when finally decided upon, shall be entered into the formal records of the City, as kept in the normal operations of the City and shall be subject to the inspection of any taxpayer during City Hall business hours. Any portion of an annual budget appropriation remaining unexpended and unencumbered at the close of the fiscal year shall lapse and said portion of any appropriation shall revert to the respective Fund of said City.

## **SECTION 2. ANNUAL AUDIT<sup>84</sup>.**

The Common Council shall, by Majority Vote of the Common Council<sup>[s60]</sup> at a meeting to be held not later than one (1) month after each Mayoral Election, appoint a certified public accountant or firm who shall audit the books and accounts of the City, in accordance with the provisions of the General Statutes, and who shall perform such other duties as may be deemed necessary by the Common Council.

## **SECTION 3. ASSESSMENTS, COLLECTION WARRANT LIEN.**

- A. Issuance of Collection Warrant.** In any case where, under the provisions of this Charter or of any bylaw or Ordinance of the City, a sum of money, other than taxes, shall have been ordered by the Common Council to be paid) by any person, or where any assessment shall have been made, or where any expense shall have been incurred by the City because of the failure of the property holder to comply with any Order of the Common Council or with an Ordinance, the Common Council may appoint a collector to collect such sums of money and

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<sup>84</sup> [Amended 11-4-2014]

assessments of expenses and shall cause the collector to account duly for the amount of same, the Mayor or President of the Common Council, (only when acting as Mayor in a temporary capacity<sup>[S61]</sup>) shall issue a warrant authorizing such collector to collect same.

- B. Authority of Collectors.** Every such collector shall proceed in the same manner and have the same powers and be under the same regulations as by Law prescribed for collectors of public taxes.
- C. Terms and Conditions.** All such sums of money, other than taxes, but including assessments or expenses, shall be subject to interest from the date when the same shall be payable at the same interest rate or rates and in the same manner as shall be provided by the General Statutes in case of delinquent taxes and shall remain a lien upon the property specially benefited by the public work or improvement with reference to which such assessment was made or upon the property against which such expense be chargeable.
- D. Precedence of Liens.** Such lien and all liens created under the provisions of this Charter shall take precedence and priority over any lien or encumbrance on the property whereon the same shall be imposed, except taxes and other City liens prior in date, and any such lien may be foreclosed in the same manner as if such lien were a mortgage given to said City to secure the amount of such assessment or such expense, provided such lien shall not continue for a period longer than sixty (60) Days after the time when such assessment or such expenses shall become payable, unless before the expiration of said sixty (60) Days a certificate, signed by the Mayor or the City/Town Clerk of said City, describing the property on which the lien shall exist and the amount claimed by said City as a lien thereon, shall be lodged with the City/Town Clerk.
- E. Satisfaction of Lien: Recording of Certificate.** Whenever any such lien shall have been satisfied, a certificate of such fact signed by the Mayor, the President of the Common Council, (only when acting as Mayor in a temporary capacity<sup>[S62]</sup>), or the City/Town Clerk of said City, shall be lodged with said City/Town Clerk. The City/Town Clerk shall record all such certificates in a book kept for that purpose and the reasonable expense of filing and discharging such lien shall be added to such assessment or expense.
- F. Fines and Penalties for Certain Willful Actions.** Any person willfully interrupting, hindering, abusing and resisting or obstructing any such collector in the discharge of the collector's duty shall be fined in an amount not exceeding one hundred (\$100.00) dollars or imprisoned not exceeding sixty (60) Days or both in any criminal action brought before the Superior Court.

## **SECTION 6. LIENS, ASSESSMENTS FOR SERVICES.**

- A. Water, Sewer and Sanitation Liens.** All water rents, sewer and sanitation charges and all service charges due for any service under the provisions of this Charter shall be and remain a lien upon the house, tenement or lot, wherein or in connection with which service shall have been rendered to the owner or occupant thereof and said lien shall have priority over all other liens and

encumbrances on said house, tenement or lot, whereon the same is imposed, except taxes, tax liens and other City liens prior in date, and may be enforced or foreclosed by and in the name of the City of Middletown, before any Court having competent jurisdiction thereof, in the same manner as mortgages on lands and buildings are foreclosed.

- B. Sale of Liened Real Property.** The Common Council of the City of Middletown shall have the right and power to authorize the sale of any interest in any house, tenement or lot, which the City shall acquire by reason of such foreclosure, and the proceeds of any such sale shall be paid into the City treasury. Such liens shall be perfected and be in effect in accordance with provisions of the General Statutes relating to the taxes on real estate.

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## CHAPTER VII: SANITARY DISPOSAL DISTRICT

### SECTION 1. SANITARY DISPOSAL DISTRICT; BOUNDARIES<sup>85</sup>.

The Sanitary Disposal District shall continue to be that portion of the City of Middletown as is constituted the Sanitary Disposal District on the effective date of this Charter, together with any other territory contiguous thereto which may hereafter be added in accordance with the provisions of this Charter. The expense for the maintenance and operation of said district shall be a service charge upon all property located within the district. The provisions of Special Act No. 466 (1951) of the Connecticut General Assembly not inconsistent with the provisions herein shall continue in effect.

### SECTION 2. ALTERATION OF BOUNDARIES; NOTICE REQUIRED

**Alteration of District Boundaries.** The boundaries of the Sanitary Disposal District shall not be extended except in the following manner:

- A. Annexation: Written Petition, Hearing Notice and Conduct of Public Hearing and Vote of Common Council.** Upon the written petition of a majority of the property owners, without the Sanitary Disposal District but within any part of said City contiguous to said district, requesting to be annexed as a part of the Sanitary Disposal District and describing the limits of said contiguous territory to be annexed, the Common Council may, after a public hearing, in accord with Public Hearing Notice which shall be given at least five (5) Days prior to such hearing, by vote annex the territory described in such petition to the Sanitary Disposal District. The vote of the Common Council<sup>[S63]</sup> annexing such territory to said district shall specify the boundaries of the territory annexed, a date upon which service will be initiated and a copy of such vote, certified by the Clerk of the Common Council, shall be forthwith recorded in the land records of the City and filed in the Office of the Assessor and in the Office of the Sanitary Disposal District.
- B. Separation from District: Written Petition, Public Hearing Notice and Conduct of Public Hearing and Vote of Common Council.** Upon the written petition of a majority of the property owners within any part of the Sanitary Disposal District that is contiguous to a non-member territory requesting to be separated from the Sanitary Disposal District and describing the limits of said contiguous territory to be separated, the Common Council may, after a public hearing, in accord with Public Hearing Notice which shall be given at least five (5) Days prior to such hearing, by vote, separate the territory described in such petition from the Sanitary Disposal District. The favorable vote of the Common Council<sup>[S64]</sup> separating such territory from said District shall specify the boundaries of the territory separated, with an effective date of release, and a copy of such vote, certified by the Clerk of the Common Council, shall be forthwith recorded in the Land Records of the City and filed in the Office of the Assessor and in the Office of the Sanitary Disposal District.

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<sup>85</sup> Amended 11-4-2008.

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## CHAPTER VIII: BOARD AND COMMISSIONS

### SECTION 1. GENERAL REQUIREMENTS FOR APPOINTED COMMISSIONS AND COMMITTEES<sup>[S65]</sup>.

#### A. **Creation of Boards and Commissions: Number of Members and Terms**<sup>86</sup>.

In addition to those Boards and Commissions *and Committees* established by this Charter there shall be such Commission and Committees of an advisory nature or limited duration, as may be deemed necessary by the Mayor and the Common Council, the Council shall by Ordinance establish the Boards and Commissions of the City. Unless this Charter or Special Acts provides otherwise, the Council shall set forth, by Ordinance, the powers, duties and organization as follows:

1. The number of Board and Commission members (and alternates) and terms of office, which may be staggered. Except as otherwise provided by the General Statutes, the number shall always be odd and the term of office shall not exceed a term of five (5) years, which may be staggered<sup>87</sup>.
2. Any such Ordinance shall make provision for (a) the appointment of a chair and a delineation of the responsibilities of the presiding officer; (b) the keeping of records and posting of agendas as required by the General Statutes; (c) minority party representation as set forth herein; (d) public participation (including, but not limited to, public speaking); and, (e) the frequency of meetings of all Boards and Commissions. The agendas of Boards and Commissions shall be approved by the Chair of such entity<sup>88</sup>.
3. A majority of the total membership of each such Board and Commission shall constitute a quorum for the transaction of all business; unless, otherwise required by the General Statutes<sup>89</sup>.

**B. Appointment**<sup>90</sup>. Except as otherwise provided by the General Statutes or this Charter, all members or alternate members of Boards or Commissions shall be appointed by the Mayor as set forth in this Charter, subject to approval by the Common Council. All Board or Commission members shall serve until the completion of their respective terms or until their successors have been appointed and qualified.

**C. Limitations of Service**<sup>[S66]</sup><sup>91</sup>. No person may be appointed to a new term on any Board or Commission if at the time of the commencement of such new

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<sup>86</sup> Modification and recodification of Chapter VII, Sec. 3.

<sup>87</sup> NEW (2021)

<sup>88</sup> NEW (2021)

<sup>89</sup> NEW (2021)

<sup>90</sup> NEW (2021)

<sup>91</sup> NEW (2021).

term such person shall have served three (3) consecutive terms on such Board or Commission. Such person may be reappointed to such Board or Commission after a lapse of three (3) years.

- D. Vacancy<sup>92</sup>.** Unless otherwise set forth in the General Statutes or in this Charter, in the event of a Vacancy on any Board or Commission, a successor shall be appointed by the Mayor, subject to approval by the Common Council, for the unexpired portion of the term, as set forth in this Charter.
- E. Removal<sup>93</sup>.** Members of Boards and commission shall be removed in accordance with the provisions of Chapter II, Section 11.B of this Charter and any procedural rules set forth thereunder.
- F. Residency Requirement<sup>94</sup><sub>[S67]</sub>.** Except as otherwise provided by Ordinance, no person may serve on a Board or Commission unless such person is an Elector of the City. If any such person who is a member of a Board or Commission shall move from the City, such person's membership on such Board or Commission shall be immediately terminated. Notwithstanding the foregoing, a nonresident may serve on a Board or Commission if appointed as the representative of a local organization entitled to representation in accordance with the Ordinance establishing said Board or Commission.
- G. Dual Appointment Prohibited; Exceptions<sup>95</sup>.** Except where otherwise provided by general or special Law, no person may serve as an appointed member of more than one Board or Commission at the same time, with the exception of a Charter Revision Commission or other Boards or Commissions of finite duration. Members of the Common Council may only serve on a Board or Commission if assigned as a representative to such Board or Commission for the sole purpose of representing the Council.
- H. Political Composition: Minority Party Representation<sup>96</sup>.** Unless otherwise required by the General Statutes or as otherwise set forth in this Charter, the political affiliation of the members of all appointed Boards or Commissions or panel of alternates shall reflect the requirements of the General Statutes with respect to minority party representation<sup>97</sup>. This provision shall apply to all Boards or Commissions established or required by this Charter or established by Ordinance.
- I. Compensation Prohibited<sup>98</sup>.** Except as otherwise set forth in this Charter or by Ordinance, no member of any appointed Board or Commission shall receive compensation for services as such member.

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<sup>92</sup> NEW (2021)

<sup>93</sup> NEW (2021).

<sup>94</sup> ~~NEW (2021).~~

<sup>95</sup> NEW (2021).

<sup>96</sup> NEW (2021).

<sup>97</sup> See, C.G.S. § 9-167a entitled "Minority representation".

<sup>98</sup> NEW (2021).

- J. Restrictions Pertaining to Members of the Board of Ethics<sup>99</sup>.** No person who has served in the previous three (3) years as a Public Official, other than a member of the Boards of Ethics, or a political party officer, shall be appointed to membership on the Board. For purposes of this section, the term “Public Official” means an individual who holds or has held a municipal office (as defined in C.G.S. §9-372 but shall not include a justice of the peace or notary public) in the City and the term “political party officer” means an officer of a national committee of a political party, state central or town committee or any person employed by such committee for compensation.
- K. Required Cooperation<sup>100</sup>.** Each Official and employee of any Department of the City shall assist the Boards and Commissions and the pertinent Departments in carrying out the provisions of this section. Furthermore, in the event a Board or Commission is attached to a Department, the Department Head shall cooperate with said Board or Commission in formulating and carrying out the operational and management policies of the Department.
- L. Publication of Boards and Commissions: Applicant Pool<sup>101</sup>.** In addition to the requirements of this Charter, during the month of November of each year, the Mayor shall cause to be (1) published on the City web-site; (2) posted in a conspicuous location available to the public in the office of the City Clerk and in such location in City Hall as designated by the Mayor; and, (3) if practicable, published in a newspaper of local availability to the residents of the City, a list of all the Boards and Commissions of the City, for the purpose of creating an applicant pool. Any Elector desirous of serving on any Board or Commission may express such desire in writing addressed to the City/Town Clerk who shall forward such correspondence to the Mayor or other such appointing authority who shall retain such correspondence on file for two (2) years. The appointing authority of any member of any Board or Commission shall review such notices prior to making the appointment to such Board.

## **SECTION 2. PLANNING AND ZONING COMMISSION<sup>102</sup>.**

- A.** There shall be a Planning and Zoning Commission which shall exercise all powers and authority enumerated in Chapter 124, Section 8-2 of the General Statutes, as amended, and shall exercise said powers and authority in accordance with the provisions of Section 8-3 and Section 8-4a of Chapter 124 of the General Statutes, as amended. All existing regulations shall continue in full force and effect until modified, repealed or superseded by action of the Planning and Zoning Commission.
- B.** The Planning and Zoning Commission shall consist of seven regular voting

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<sup>99</sup> NEW (2021).

<sup>100</sup> NEW (2021).

<sup>101</sup> NEW (2021).

<sup>102</sup> Recodification of Chapter VII, Sec. 1.

members. The Mayor and Director of Planning and Zoning<sup>103</sup><sub>[S68]</sub> shall also be members without voting privileges. There shall be three alternate voting members. Members and alternates shall be elected for terms of four years. The Planning and Zoning Commission shall annually elect a Chairman, Vice Chairman, and Secretary from among its regular voting members. [Amended 11-4-2008]

- C. A quorum shall consist of six (6) commissioners and decisions shall be taken by affirmative vote of no fewer than five (5) commissioners.

### **SECTION 3. ZONING BOARD OF APPEALS**<sup>104</sup>.

There shall be a Zoning Board of Appeals in accordance with the provisions of Chapter 124 of the General Statutes. Members shall be appointed by the Mayor and confirmed by the Common Council. Members of the present Zoning Board of Appeals shall continue in office until the expiration of their terms.

### **SECTION 4. BOARD OF ETHICS**<sup>105</sup><sub>[S69]</sub>.

There shall be established a Board of Ethics.

### **SECTION 5. CIVILIAN REVIEW BOARD**<sup>106</sup><sub>[S70]</sub>.

There shall be established a Civilian Review Board in accordance with the General Statutes.

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<sup>103</sup> Modification of Chapter VIII, Sec. 2.B. (replace "Director of Public works" with "Director of Planning and Zoning").

<sup>104</sup> Recodification of Chapter VII, Sec. 2.

<sup>105</sup> Modification of the second sentence of current Chapter III, Sec. 9. Editor's Note: See Ch. 40, Ethics, Code of.

<sup>106</sup> Modification of the second sentence of current Chapter III, Sec. 9. Editor's Note: See Ch. 40, Ethics, Code of.

## CHAPTER IX: BONDING POWERS

### SECTION 1. POWERS GENERALLY; ISSUANCE AUTHORIZED.

The City of Middletown shall have the power to incur indebtedness by issuing its bonds, notes or other obligations in accordance with the provisions of the General Statutes and for the following purpose:

- A. for any purpose authorized by the General Statutes;
- B. to fund an emergency expenditure;
- C. to meet that portion of the cost, including damages incurred, of any public improvement, duly authorized, the cost of which is ultimately to be defrayed from benefits assessed, providing nothing in this section shall be taken to interfere with the power of the Council to provide for the issuance of assessment of benefits as provided in this Charter;
- D. to prevent the City from defaulting on the principal or interest on its debt, the full amount of which, with interest to maturity, shall be included in the budget for the ensuing year wherein such notes shall be retired;
- E. to pay for the acquisition and development of a project or land outside of the City for any purpose for which it may develop a project or land within the City; and,
- F. in anticipation of the receipt of the collection of taxes for the current fiscal year, such notes to be repaid from the proceeds of such taxes and, if not paid in full before the end of such year, an amount equal to the unpaid balance thereof shall be included in the budget for the ensuing fiscal year.

### SECTION 2. DEBT AUTHORIZATION<sup>107</sup>[s71].

- A. **Council Authorization of Issuance.** The issuance of bonds, notes, or other obligations shall be authorized by Ordinance adopted by the Council. Provided however, if the total estimated cost of any improvement for which such obligations are proposed to be issued exceeds \$500,000 but less than or equal to \$750,000, no bonds, notes, or other obligations shall be issued for such improvement unless the Ordinance authorizing such issue shall have received a Majority Vote of the Common Council[s72] at its next meeting after a special public hearing on the ordinance, which public hearing shall be held on a date prior to the Council's consideration of the issue.
- B. **Referendum Authorizing Issuance.** In the event such bonds, notes or other obligations for any improvement proposed to be issued exceeds \$750,000, no bonds, notes, or other obligations shall be issued for such improvement unless the Ordinance authorizing such issue shall also be approved by a majority of those voting thereon at a general municipal election or referendum called and

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<sup>107</sup> Amended 11-3-2009.

warned for that purpose subject to any State Statute that may appertain to or be in addition to the Charter requirements.

- C. Notes in Anticipation of Taxes.** Notes in anticipation of taxes shall be authorized by Resolution of the Council.
- D. Notes to Prevent Default.** Notes to prevent default on the principal or interest of the City's debt shall not be subject to referendum and shall be authorized upon Council adoption of a Resolution following certification to the Council by the Official of the City with the authority of the treasurer<sup>[§73]</sup> that, except for such borrowing, a default on the part of the City would take place. Such certification shall be spread on the minutes of the Council.

### **SECTION 3. THE DEBT AUTHORIZATION ORDINANCE.**

The Ordinance authorizing the issuance of bonds, notes or other obligations shall set forth

- A.** The purpose for which the obligations are to be issued and, **if they are to be issued for a public improvement**, a description in brief and general terms of such improvement together with an estimate of its cost and the portion, if any, of such cost to be defrayed from sources, specifying the same, other than the proposed bond issue;
- B.** The amount of the proposed issue;
- C.** A statement showing that the proposed issue is within the limitations as provided herein; a determination of the estimated useful life of the improvement, if any, for which the obligations are to be issued; and,
- D.** A determination that the principal and interest on the proposed issue are to be paid from property taxes and that the full faith and credit of the City are pledged to such payment.

### **SECTION 4. SHORT PERIOD OF LIMITATION.**

When ten (10) Days shall have elapsed after the passage and publication of a bond Ordinance or, in the event of a referendum, the recitals or statements of facts therein shall be deemed to be true for the purpose of determining the validity of the bonds and the Ordinance shall be conclusively presumed to have been duly and regularly passed and to comply with the provisions of this Charter and the validity of such bond Ordinance shall not thereafter be questioned by either a party plaintiff or a party defendant except in a suit, action or proceeding commenced prior to the expiration of such ten (10) Days.

### **SECTION 5. CONSTRUCTION OF POWERS.**

The powers granted to the City of Middletown in this Chapter shall be construed to be in addition to, and not in limitation of, any powers granted to said City under the provisions of any other Special Act.

## CHAPTER X: PERSONNEL POLICIES

### SECTION 1. CLASSIFIED SERVICE AND REGULAR PART-TIME.

A. **Defined**<sup>[S74]</sup><sup>108</sup>. The Classified Service shall include all non-elective officers, full time and regular part-time employees of the City and appointees to all positions now or hereafter created except the Chief of Staff to the Mayor<sup>109</sup><sup>[S75]</sup>, the Board of Education's Director of Facilities, the Board of Education's Paraprofessionals and certified teachers and staff, those retained to make or conduct a temporary or special inquiry, task, study or investigation, and any persons employed on a temporary basis by the City.

1. **Non-certified employees assigned to the Board of Education: Transition Provision Effective July 1, 2022**<sup>110</sup>. Non-certified employees working at the Board of Education shall be Board of Education employees and no longer included in the City's Classified Service after June 30, 2022.

a. **Retention of Status and Benefits.** Non-certified personnel working at the Board of Education who were unionized as of June 30, 2022, with the City will retain unionized status and all non-certified employees working at the Board of Education<sup>[S76]</sup>, including non-bargaining employees, will retain benefits in existence on June 30, 2022 unless and until otherwise negotiated.

b. **Role of the Board of Education.** The Board of Education will have sole and exclusive control over the appointment of and wages, hours, and the conditions of employment for all non-certified staff working at the Board of Education after June 30, 2022, except as provided herein.

i. After June 30, 2022, the job duties and responsibilities of the non-certified employees working at the Board of Education that existed prior to June 30, 2022, shall remain in effect and be recognized by the Superintendent.

ii. Thereafter, it will be the duty of the Superintendent to seek approval from the Board of Education on any changes made to the duties and responsibilities of the non-certified positions working at the Board of Education, including the compensation and minimum qualifications of said positions.

iii. Any negotiation of benefits on behalf of the non-certified employees working at the Board of Education that occurs after June 30, 2022, will be negotiated with the Superintendent or designee and ratified by the Board of

<sup>108</sup> Modification and recodification of Article X, Section 1.A.

<sup>109</sup> Modification of Chapter I, Sec. 3.E (Change "Administrative Assistant" to "Chief of Staff").

<sup>110</sup> NEW (2021)

Education except that insurance and pension benefits must be negotiated with the Mayor and ratified by the Common Council.

- iv. The negotiation of insurance and pension benefits will occur collaboratively<sup>[S77]</sup>.
  - v. Non-certified employees working at the Board of Education after June 30, 2022, who are eligible to receive a pension, will be considered City employees for pension purposes and continue to be part of the City's pension plan.
  - vi. After June 30, 2022, the Board of Education may only create new non-certified positions, add additional employees to existing non-certified job classifications, or reclassify non-certified positions with financial approval by the Common Council.
- B. The Classification Plan of the City<sup>111</sup>.** It shall be the duty of the Mayor to cause to be prepared a statement of the duties and responsibilities of each position in the Classified Service, the compensation pertaining thereto and of the minimum qualifications for such positions. These statements shall comprise the Classification Plan of the City which shall become effective upon approval by a Majority Vote of the Common Council<sup>[S78]</sup> and which may be amended by the Council, either upon the recommendation of the Mayor or upon the initiative of the Council itself.
- C. New or Additional Classified Service Positions<sup>112</sup>.** New or additional positions in the Classified Service may be created and changes in the duties and responsibilities of existing positions may be made by amendment of the Classification Plan by a Majority Vote of the Common Council<sup>[S79]</sup> upon recommendation of the Mayor or upon the initiative of the Council itself.
- D. Personnel Rules<sup>113</sup>.** The Mayor shall also cause to be prepared a set of amendments to the personnel rules under the Plan, which shall be reviewed or revised at least every four (4) years and which shall provide, among other things, for:
- 1. The method of holding competitive examinations;
  - 2. Administration of the classification plan;
  - 3. Probationary period of employment;
  - 4. Hours of work;
  - 5. Vacations;
  - 6. Sick leaves and other forms of absences; and,

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<sup>111</sup> Recodification of Article X, Section 1.B.

<sup>112</sup> Recodification of Article X, Section 1.C.

<sup>113</sup> Recodification of Article X, Section 1.D.

7. Such other rules as may be necessary to provide for an adequate and systematic procedure for the handling of the personnel affairs of the City.

If the Mayor does not cause the personnel rules to be reviewed every four (4) years, then the Common Council may initiate, by Majority Vote of the Common Council<sup>[S80]</sup>, the review of the personnel rules. Such rules and amendments thereto shall become effective upon approval by a Majority Vote of the Common Council (or, upon a stricter standard as may be adopted by the Common Council) and being filed with the City/Town Clerk by the Mayor and copies of such rules and amendments thereto shall be provided for all members of the Classified Service.

- E. **Employment Contracts for Classified Service Employees**<sup>114</sup>. Nothing in this section shall be construed to prevent members of the Classified Service from entering into a contract with the City for the purpose of establishing working conditions, wages and other conditions pertaining to the continuance and termination of employment.
- F. **Regular Part-Time Employee defined**<sup>115</sup>. A regular part-time employee of the City shall mean any person who is employed a minimum of twenty (20) hours per week for at least eight (8) months of a twelve (12) month calendar year.
- G. **Equal opportunity, diversity, equity, affirmative action and inclusion**<sup>116</sup><sup>[S81]</sup>. It shall be the policy of the City to maintain a Classified Service; specifically, a merit-based system that will assure recruitment of the best available persons to appointment to vacant positions, continue training and evaluation of employees and bargain fully with the collective bargaining representatives of employees. Moreover, the City is required to provide equal opportunity to all qualified applicants and to all employees with respect to initial employment, advancement and general working conditions, without respect to any persons who are members of a "protected class" as recognized and defined by the discrimination and civil rights laws of the United States and/or State of Connecticut now existing, or as amended in the future<sup>[S82]</sup> and persons who face barriers to reentry due to impacts of the justice system ("justice impacted individuals"). Moreover, no officer or employee of the City, shall be appointed, discharged, reduced in rank or pay, removed or in any way favored or discriminated against, because of their status in any "protected class" or "justice impacted individuals" as set forth herein and in accordance with the application of Law and the operations of government. The City shall delineate the "protected classes" and "justice impacted individuals" by Ordinance, from time to time, as necessary.
  1. **The Plan.** City administrators responsible for equal opportunity and diversity management and human resources, in consultation with the Affirmative Action Monitoring Committee or a successor entity, shall regularly develop and maintain a comprehensive and systematic

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<sup>114</sup> Recodification of Article X, Section 1.E.

<sup>115</sup> Recodification of Article X, Section 1.F.

<sup>116</sup> New provision (2021).

diversity, equity, affirmative action and inclusion plan which will assure equal opportunity and a fair chance in recruitment, selection and retention, job structure, promotion policies, training to improve job performance and upward mobility, including any related procedures and practices, including performance appraisals and employee review in accordance with best practices in the human resource management.

2. **Approval of the Plan.** Said plan shall be reviewed by the Mayor submitted to the Common Council and be deemed effective upon approval by said Council.
3. **Exception.** The sole exception to these protections is that officers or employees who by the terms of the Charter serve at the pleasure of the Mayor are subject to employment decisions based on their political opinion or affiliation.

## **SECTION 2. HIRING TEMPORARY EMPLOYEES.**

All temporary employees shall be hired by the Mayor unless the Mayor gives written authorization to a Department Head to hire a temporary employee or employees.

## **SECTION 3. APPOINTMENT OF CLASSIFIED EMPLOYEES OF THE CITY.**

All classified employees of the City shall be appointed by the Mayor pursuant to and in accordance with the City Personnel Rules and Classification Plan. All positions of employment within the City government, except the Mayor's Chief of Staff<sup>117</sup><sub>[S83]</sub>, shall be open to all qualified applicants and the application, selection processes and, if applicable, testing shall be conducted in accordance with the Personnel Rules of the City.

## **SECTION 4. POLITICAL ACTIVITY.**

The political activities of classified municipal employees shall be governed by Section 7-421 and 7-421 (A) as set forth in Chapter 113 of the Connecticut General Statutes and any amendments thereto.

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<sup>117</sup> Modification of Chapter X, Sec. 3 (Change "Administrative Assistant" to "Chief of Staff" and eliminate "Corporation Counsel").

## **CHAPTER XI: GENERALLY**

### **SECTION 1. EFFECTIVE DATE.**

The provisions of this Charter and amendments thereto shall become effective upon adoption by the voters of the City of Middletown; except as otherwise specifically set forth in the Charter<sup>[S84]</sup>.

### **SECTION 2. PARTIAL INVALIDITY.**

If any provisions of this Charter shall be held to be invalid for any reason, the remaining provisions of this Charter shall not be affected by such determination and shall remain in full force and effect.

### **SECTION 3. ADOPTION OF STATE LAW.**

Those Chapters of the General Statutes pertaining to "Municipal Sewerage Systems," and "Uniform Fiscal Years," are hereby adopted.

WORKING DRAFT LANGUAGE REVISIONS - 26 MAY 2021