POSTED DECEMBER 1, 2021
REGULAR MEETING DECEMBER 6, 2021

TOWN COUNCIL OF THE TOWN OF MIDDLETOWN, RHODE ISLAND

The following items of business, having been filed with the Town Clerk under the Rules of the Council, will come before the Council at a regular meeting to be held on **Monday, December 1, 2021, 6:00 P.M. – Executive Session; 6:30 P.M. Regular Meeting** at the **Middletown Town Hall, 350 East Main Road, Middletown, Rhode Island**. The items listed on the Consent portion of the agenda are to be considered routine by the Town Council and will ordinarily be enacted by one motion. There will be no separate discussion of these items unless a member of the Council, or a member of the public so requests and the Town Council President permits, in which event the item will be removed from Consent Agenda consideration and considered in its normal sequence on the agenda. All items on this agenda, with the exception of the Public Forum Session, may be considered, discussed, and voted upon in executive session and/or open session.

Pursuant to RIGL §42-46-6(b). Notice – "Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official."

Any person not a member of the Council, desiring to address the Council concerning a matter on the docket of the Council, not the subject of a Public Hearing, shall submit a written request to the Town Clerk stating the matter upon which he desires to speak. Persons are permitted to address the Council for a period not to exceed five (5) minutes.

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to ***Reconsider*** [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

6:00 P.M. - EXECUTIVE SESSION

1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a), (5) Land Acquisition, (2) Litigation (Opioid Litigation), (1) Personnel (Public Works Director) and (1) Collective Bargaining (FOP) - review, discussion and/or potential action and/or vote in executive session and/or open session.

PUBLIC FORUM

2. Pursuant to Rule 25 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting. All items discussed during this session will not be voted upon.

ORDINANCE

3. An Ordinance of the Town of Middletown (First Reading)
   An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 34 Taxes, Section 34.70 Tax Classification System.

PUBLIC HEARINGS

4. (Public Hearing Advertised)
   An Ordinance of the Town of Middletown (First Reading)
   An Ordinance in Amendment to the Town Code of the Town of Middletown, Title XV Land Use, Chapter 152 Zoning Code, amending sections §27A04(C), and §27A07(E) of Article 27A – Mixed-use Development.

5. (Public Hearing Advertised)
   Grant Application for Recreational Opportunities at Linden Park at 141 West Main Road, Paradise Park at 19 Prospect Avenue, and the Multi-Purpose Fields at 1225 Aquidneck Avenue.

6. Memorandum of Town Planner, re: 2022 RIDEM Recreation Development Grant.

7. Resolution of the Council, re: 2022 RIDEM Recreation Development Grant – Authorizing the Planning Department to prepare and submit grant applications.

TOWN COUNCIL/TOWN ADMINISTRATOR

8. Discussion of Master Plan at Linden Park, including Pickleball Courts.

9. Memorandum of Council President, re: Discussion of projected School Department deficit.

10. Memorandum of Town Administrator, re: School Department – Fiscal Issues Requiring Immediate Attention.

11. Memorandum of Finance Director, thru Town Administrator, re: Audit Extension.

12. Communication of Councillor Turano, re: Update on the progress of the Affordable Housing Committee.

13. Memorandum of Town Administrator, re: Change Order to FJS Associates Contract.

14. Resolution of the Council, re: Authorize the Town Administrator to execute a Change Order to FJS Associates Contract.

15. Memorandum of Town Administrator, re: Additional Drawings of Affordable Housing Plans.

16. Resolution of the Council, re: Authorize the Town Administrator to execute a change order to FJS Associates - Additional Drawings of Affordable Housing Plans.

17. Memorandum of Town Administrator, re: Update Market Study for Affordable Housing.

18. Resolution of the Council, re: Authorize the Town Administrator to execute a change order to FJS Associates - Update Market Study for Affordable Housing.

19. Memorandum of Town Administrator, re: Change Order for Mechanical Design of Senior Center.

20. Resolution of the Council, re: Authorize the Town Administrator to execute a change order to FJS Associates for Mechanical Design of Senior Center.

21. Memorandum of Town Administrator, re: Out of School Program.

22. Communication of Councillor Turano, re: Middletown Education Resolution.

23. Resolution of the Council, re: Prioritizing Quality Education for Middletown Students, Families and Residents.

TOWN ADMINISTRATOR

24. Memorandum of Town Administrator, re: Request to Extend Public Sewer Line on Aquidneck Avenue.

25. Memorandum of Town Administrator, re: RIDOT Temporary Easements for Aquidneck Avenue Improvements (Green End Avenue to East Main Road).

26. Communication of Tax Assessor, re: Cancellation of Taxes for certain Middletown residents.

27. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

28. Communication of Tax Assessor and Finance Director, re: Cancellation of Taxes for certain Middletown residents.

29. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

Wendy J.W. Marshall, CMC
Town Clerk

This meeting location is accessible to the handicapped. Individuals requiring interpreter services for the hearing-impaired should notify the Town Clerk's Office at 847-0009 not less than 48 hours before this meeting.

Posted on December 1, 2021, at Middletown Town Hall, Middletown Public Library, Middletown Web Site and Secretary of State Web Site.

Item # 3

ORDINANCE OF THE TOWN OF MIDDLETOWN, RHODE ISLAND

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF MIDDLETOWN

TITLE III: ADMINISTRATION
Chapter 34, Taxes

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title III, Chapter 34, Taxes, Section 34.70 entitled "Tax Classification System" is amended as follows (language to be deleted is stricken out within brackets; language to be added is underlined):

Section 34.70 Tax Classification System

(A) The town does hereby adopt a system of classification of taxable property in the town in conformity with the provisions of R.I. Gen. Laws § 44-5-11.8 effective for taxes assessed as of December 31, 2021. All ratable property in the town shall be classified by the Tax Assessor as follows:

(1) *Class One.* Residential real estate consisting of no more than five dwelling units, land classified as open space and dwellings on leased land including mobile homes. This class may also include residential properties containing partial commercial or business uses with no more than five (5) dwelling units. For properties with both residential and commercial or business uses, the residential tax rate will be applied to the residential portion and the commercial tax rate will be applied to the commercial portion. This class shall be further subdivided into (a) owner-occupied and (b) non-owner occupied properties, and the Town Council shall adopt separate tax rates for each category in compliance with the tax rate restrictions of R.I. Gen. Laws § 44-5-11.8.

The granting of an application for an owner-occupied residential tax rate as referenced above is subject to the following limitations:

a. An owner-occupied residential tax rate shall only be allowed upon written application therefor, which application shall be filed annually on a form prescribed by the Tax Assessor. In the absence of such application, the non-owner occupied rate shall apply. Taxpayers applying for an owner-occupied residential tax rate shall file a notarized application and declaration, and present evidence under oath as to the owner-occupied status of the subject property in such manner as may be required by the Tax Assessor. All applications must be filed with the Tax Assessor's Office between January 1 and March 15 following the date of assessment for the year for which the owner-occupied rate is claimed; provided however, that for the year following the December 31, 2021 assessment date, all applications may be filed with the Tax Assessor's Office between January 1 and ________, 2021. For good cause, the Tax Assessor may, with advice of the Board of Assessment Review, accept applications for owner-occupied status after the filing deadline for the current or previous year's taxes only.

b. The real property for which the owner-occupied residential tax rate is claimed must be legally titled to the Taxpayer occupying the property, a trust to which the Taxpayer is the named beneficiary, a life tenant with responsibility for the payment of taxes on the property, or to a corporate entity owned and controlled by the Taxpayer, as of December 31 prior to the fiscal year for which the owner-occupied rate shall apply.

c. Applicants may qualify for an owner-occupied residential tax rate on only one (1) property in the town at any point in time. In addition, an owner of real estate in the Town of Middletown must meet all of the following requirements in order to qualify for an owner-occupied rate:

1. The owner-occupied rate applicant or the owner-occupied rate applicant's spouse, must be a registered voter in the Town of Middletown;

2. Neither the owner-occupied rate applicant nor the applicant's spouse is receiving an owner-occupied rate or homestead exemption or other personal exemption for another piece of real property, located elsewhere in the State of Rhode Island, or in any other state of the United States, for the same period of time the owner is seeking the owner-occupied rate for property owned in the town, unless during that time the owner is either legally separated or divorced from the spouse during some or all of the period in which they are claiming more than one (1) owner-occupied rate;

4. The owner-occupied rate attaches to the owner(s) of the real property, and not to the real property itself.

5. A dwelling unit that is leased or rented for any portion of the year shall not be deemed to be owner-occupied.

6. If the Taxpayer gives misinformation as to ownership and/or occupancy of the real property on his/her application for an owner-occupied rate, the Tax Assessor may, in such event, remove the owner-occupied rate and apply the non-owner occupied rate and recalculate the tax for the period in question and in addition charge the taxpayer the maximum interest permitted by law. Such person shall also subject to a fine of up to $1,000.00.

7. The Tax Assessor is empowered to inquire into the right of a Taxpayer to the continuance of the owner-occupied rate, and for such purpose he/she may require the filing of a new application or the submission of such proof as he/she shall deem necessary to determine the right of the Taxpayer to the continuance of such rate, and may promulgate any further rules and regulations which he/she deems

necessary to carry out the intent and purpose of this section as it relates to the owner-occupied residential tax rate.

8. An owner-occupied residential tax rate granted pursuant to this subsection shall terminate upon:

(i) The conveyance of the subject property; provided however, if the new owner(s) of the property make application and qualify for an owner-occupied residential tax rate within thirty (30) days of the date of the conveyance, the rate shall continue through the end of said tax year;

(ii) The death of the owner(s) occupying the subject property; provided, however, that if the owner(s) holds an ownership interest in the subject property as of the date of assessment for the year for which the exemption is claimed and subsequently deceases, the rate shall continue through the end of said tax year, unless the subject property is sold; or

(iii) The subject property being rented, leased or otherwise ceasing to be owner occupied.

(2) *Class Two.* Commercial and industrial real estate, residential properties containing partial commercial or business uses and residential real estate of more than five dwelling units.

(3) *Class Three.* All ratable tangible personal property.

(4) *Class Four*. Motor vehicles and trailers subject to excise tax created by R.I. Gen. Laws Title 44, Ch. 34.

(B) The Tax Assessor, on or before June 15 each year shall make a full and fair cash valuation of all the estate, real and personal, including motor vehicles and trailers, subject to taxation and determine the assessed valuation of all property within each class.

(1) The designated classes of property shall be limited to the four classes as defined in division (A) above.

(2) The effective tax rate applicable to any class shall not exceed by 50% the rate applicable to any other class.

(3) Any tax rate changes from one year to the next shall be applied such that the same percentage rate change is applicable to all classes, unless otherwise mandated by law.

(4) The tax rates applicable to wholesale and retail inventory within Class Three are governed by R.I. Gen. Laws § 44-3-29.1.

(5) The tax rates applicable to motor vehicles within Class Four as defined in division (A) above are governed by R.I. Gen, Laws § 44-34.1-1.

(C) The provisions of R.I. Gen. Laws Title 44, Ch. 35 relating to property tax and fiscal disclosure applies to the reporting of and compliance with these classification restrictions.

(D) The Assessor has the authority to apply different rates of taxation against Class One, Class Two, Class Three and Class Four property to determine the tax due and payable on the property provided the rate of taxation is uniform within each class.

(E) The Assessor shall provide to the Finance Director a list containing the full and fair cash valuation of each property class and, with the approval of the Town Council, annually determine the percentages of the tax levy to be apportioned each class or property and shall annually establish tax rates sufficient to produce the proportion of the total tax levy.

SECOND: *This ordinance shall take effect upon passage and shall supersede any inconsistent or contrary provision in any other ordinance.*

Item #4

ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF MIDDLETOWN

TITLE XV: LAND USAGE
Chapter 152, Zoning Code

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title XV, Chapter 152, Entitled "Zoning Code" is amended by amending sections §27A04(C), and §27A07(E) of Article 27A – Mixed-use Development Projects as follows (language to be deleted is **[~~stricken~~]** out within brackets; language to be added is **underlined**):

§ 27A04 PERMITTED USES.

(C) *Performance standards.*

In addition to the requirements of Article 27 of this chapter, the following performance standards shall apply to mixed-use development.

(1) Commercial uses within a mixed-use development located in the Limited Business (LB) Zoning District shall limit hours of operation to 6:00 a.m. to 8:00 p.m., **except that hours of operation for restaurants in LB districts shall be limited to 6:00a.m. to 10:00p.m.**

(2) Commercial uses within a mixed-use development located in the General Business (GB) Zoning District shall limit hours of operation to 5:00 a.m. to 11:00 p.m.

(3) For purposes of applying the town's noise regulations, § 130.75 et seq., mixed-use developments shall comply with the maximum permissible sound levels allowed in a residential zoning district.

(4) Dumpsters within a mixed-use development shall not be emptied between the hours of 10:00 p.m. and 7:00 a.m.

§ 27A07 DESIGN STANDARDS.

(E) *Additional requirements.*

(1) No new principal building shall be located within 100 feet of an existing residential building on abutting property or 50 feet of a residentially zoned lot.

(2) The area within the required setbacks shall be devoted to a landscaped or natural buffer zone.

(3) The maximum height of any building shall be **[~~35 feet~~.]** **as set forth in § 603 of this chapter.**

(4) The minimum building front yard setback from public or private roads within and part of the internal roadway system for the development plan area shall be five feet, except that where a minimum five foot planting strip between the sidewalk and roadway are provided, the building setback may be zero feet.

The maximum building setback shall be 50 feet. In the case of a private roadway or driveway internal to the development, front setback shall be measured from the edge of the sidewalk.

(5) The minimum side or rear yard setback within the development plan area shall be ten feet, provided, however, that irrespective of lot lines, the minimum separation of buildings shall be 20 feet.

(6) The maximum footprint per building shall be as set forth in § 605 of this chapter.

SECOND: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.