POSTED DECEMBER 15, 2021
REGULAR MEETING DECEMBER 20, 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 20, 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)

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 and (5) Lease (JFK School) - review, discussion and/or potential action and/or vote in executive session and/or open session.

PRESENTATIONS

2. Citation of the Council, re: Recognition of former Council President Robert J. Sylvia.

3. Memorandum of Town Administrator, re: 2021 Holiday Card Art Contest Prize Presentation.

PUBLIC FORUM

4. 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.

ITEMS #5 - #20 WERE NOT ACTED UPON AND CONTINUED FROM THE DECEMBER 6, 2021, REGULAR MEETING.

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

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

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

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

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

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

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

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

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

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

TOWN ADMINISTRATOR

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

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

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

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

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

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

ACTING AS A BOARD OF LICENSE COMMISSION

21. Application of Mykono Pizza, LLC dba Mykono Pizza Pub, 59 Aquidneck Avenue, for a Class BV Liquor license to be used at the same premises. (NEW) (Council action is to order this application advertised for public hearing and notify abutters of the public hearing to be held on January 18, 2022)

CONSENT

22. Approval of Minutes, re: Regular Meeting, November 1, 2021.

23. Approval of Minutes, re: Special Meeting, November 13, 2021.

24. Communication of Dennis E Hoyle, CPA, Auditor General, re: Granting extension to February 28, 2022, for submission of the Town of Middletown audited finance report and management letter for the fiscal year ending June 30, 2021.

25. Continued from November 15, 2021, Regular Meeting.
Memorandum of MPC Director, thru Town Administrator, re: Islanders Committed Capacity Building Efforts and Plans for the School Year. (The Administration requests to withdraw this item at this time. The item will be placed on a future agenda.)

LICENSE/PERMITS

26. Application for Special Event Permit from St. George's School, 372 Purgatory Road, for the St. George's School 125th Anniversary Celebration to be held beginning May 13, 2022 through May 15, 2022 (Gala Celebration in the tent is on May 14, 2022 from 6-11pm; Fireworks on the May 14, 2022 beginning around 9:00 pm).

27. Application of AARMAN'S 1, LLC dba Newport Mart, 52 East Main Road, for a Holiday Sales License for the 2021-2022 licensing year. (NEW)

28. Application of Le Bec Sucre', LLC dba Le Bec Sale', 700 Aquidneck Avenue, for a Victualling House License for the 2021-2022 licensing year. (NEW)

PUBLIC HEARING

29. (Public Hearing Advertised)
Public Hearing Remains Open.
An Ordinance of the Town of Middletown (Second 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.

ORDINANCES

30. An Ordinance of the Town of Middletown (Second 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.

31. Resolution of the Council, re: Adoption of Tax Classification Plan and requesting the Town's Legislative Delegation introduce the appropriate legislation and work for its passage in the 2022 session of the General Assembly.

32. 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 34.02, Exemption on Residential Property.

33. 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 34.30, Real Property Exemptions. (Tax Exemptions for Veterans)

34. 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 34.40, Property Exemption Defined. (Tax Exemptions for Blind Persons)

TOWN COUNCIL

35. Communication of Council President Rodrigues, re: Requesting update of School/Town Consolidation.

TOWN ADMINISTRATOR

36. Memorandum of Recycling Coordinator/Operations & Facility Manager, re: Campground rate review.

37. Memorandum of Finance Director, re: Surplus Vehicle in the Public Works Department.

38. Resolution of the Council, re: Surplus Vehicle in the Public Works Department.

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

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

BOARDS AND COMMITTEES

41. Memorandum of Town Clerk, re: Appointment of Tree Warden – 2022.

42. Communication of Peter T. Tarpgaard, re: Resignation from the Conservation Commission.

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 15, 2021, at Middletown Town Hall, Middletown Public Library, Middletown Web Site and Secretary of State Web Site.

Item #29

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.

Item # 30

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 <u>in conformity with the provisions of R.I. Gen, Laws § 44-5-11.8 effective for taxes assessed as of December 31, 2021</u>. 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. <u>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.</u>

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 #32

ORDINANCE OF THE

TOWN OF MIDDLETOWN, RHODE ISLAND

An ordinance in amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 34 Taxes, Section 34.02, Exemption on Residential Property.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

(Additions are underlined; deletions are stricken)

TAX EXEMPTION AT AGE 65

§ 34.02 EXEMPTION ON RESIDENTIAL PROPERTY.

(A) The Town Council grants to every person who is a citizen and resident of the town of the age of 65 or more years and residing in the town in a dwelling house owned by him/her, which is a constituent part of his/her real property, on proper claim being made therefor, a tax exemption on the following basis:

(1) An amount not to exceed $47,800 ~~$43,400~~ of the assessed valuation of such real property for any such person, regardless of the amount of such person's income;

(2) An amount not to exceed $140,800 ~~$128,200~~ of the assessed valuation of such real property for any such person having an annual income of $25,750 ~~$24,590~~ or less;

(3) An amount not to exceed $109,900 ~~$99,900~~ of the assessed valuation of such real property for any such person having an annual income of $25,751 ~~$24,591~~ or more but less than or equal to $30,050~~$28,700~~;

(4) An amount not to exceed $78,900 ~~$71,700~~ of the assessed valuation of such real property for any such person having an annual income of $30,051 ~~$28,701~~ or more but less than or equal to $55,030~~$52,560~~; and

(5) Income levels shall increase yearly based upon the Consumer Price Index, which shall be calculated utilizing the average of: U.S. city average; Northeast Region; and the New England division figures for September of each calendar year.

(B) The Town Council grants to every person who is a citizen and resident of the town of the age of 70 or more years and residing in the town in a dwelling house owned by him/her, which is a constituent part of his/her real property, on proper claim being made therefor, a tax exemption on the following basis:

(1) An amount not to exceed $52,600 ~~$47,800~~ of the assessed valuation of such real property for any such person, regardless of the amount of such person's income;

(2) An amount not to exceed $155,100 ~~$141,000~~ of the assessed valuation of such real property for any such person having an annual income of less than $25,750~~$24,590~~;

(3) An amount not to exceed $120,900 ~~$109,900~~ of the assessed valuation of such real property for any such person having an annual income of $25,751 ~~$24,591~~ or more but less than or equal to $30,050~~$28,700~~;

(4) An amount not to exceed $86,800 ~~$78,900~~ of the assessed valuation of such real property for any such person having an annual income of $30,051 ~~$28,701~~ or more but less than or equal to $55,030~~$52,560~~; and

(5) Income levels shall increase yearly based upon the Consumer Price Index, which shall be calculated utilizing the average of: U.S. city average; Northeast Region; and the New England division figures of September of each calendar year

(C) *Hold harmless provision.* In the year of implementation of any amendment restructuring the number of income tiers set forth in § 34.02 hereof, the tax assessor shall identify all eligible taxpayers that currently receive an exemption under this chapter and who are negatively impacted by such re-structuring. In the event of a decrease in the amount of the exemption which such taxpayer would otherwise have received but for said restructuring, the tax assessor shall place the taxpayer into the closest income tier that does not result in a loss in the amount of the exemption. Provided that they remain eligible for an exemption under the terms of this chapter and barring any increase in income, such taxpayer(s) shall be entitled to remain in said tier.

Item #33

ORDINANCE OF THE

TOWN OF MIDDLETOWN, RHODE ISLAND

An ordinance in amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 34 Taxes, Section 34.30 Real Property Exemptions.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

(Additions are underlined; deletions are stricken)

TAX EXEMPTIONS FOR VETERANS

§ 34.30 REAL PROPERTY EXEMPTIONS.

(A) Real property owned by any veteran or by the unmarried widow of any veteran shall be exempt from taxation an amount not to exceed $36,250 ~~$33,000~~ of valuation.

(B) Real property owned by any totally disabled veteran shall be exempt from taxation an amount not to exceed $72,490 ~~$66,000~~ of valuation. Any person who qualifies for this exemption will not be entitled to claim the exemption under § 34.30(A) or § 34.30(C).

(C) Real property of those disabled veterans, in "specially adopted housing," and their unmarried widows, who qualify pursuant to R.I. Gen. Laws § 44-3-4 shall be exempt an amount not to exceed $145,480 ~~$132,300~~ of valuation. Any person who qualifies for this exemption will not be entitled to claim the exemption under § 34.30(A) or § 34.30(B).

(D) Real property of every person whose son or daughter was a veteran who lost his or her life as a casualty of any such wars, shall be exempted from taxation an amount not to exceed $55,820 ~~$50,800~~ of valuation.

(E) Real property owned by any veteran of military or naval service of the U.S.A. who has been or who shall be classified as, or determined to be a prisoner-of-war by the Veteran's Administration of the United States, shall be exempted from taxation an amount not to exceed $39,400 ~~$35,900~~ of valuation.

(F) Unless the context clearly indicates to the contrary, the term "veteran" as used in this section shall mean and include all those persons entitled to veterans' exemptions pursuant to R.I. Gen. Laws §§ 44-3-4 and 44-3-4.2.

Item #34

ORDINANCE OF THE

TOWN OF MIDDLETOWN, RHODE ISLAND

An ordinance in amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 34 Taxes, Section 34.40 Property Exemption Defined.

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

(Additions are underlined; deletions are stricken)

TAX EXEMPTIONS FOR BLIND PERSONS

§ 34.40 PROPERTY EXEMPTION DEFINED.

The property of each person who has permanent impairment of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of the visual field subtends an angular distance no greater than 20° in the better eye, shall be exempt an amount not to exceed $48,950 ~~$44,500~~ of valuation.