

## Middletown

### City Boundaries

#### Section 1.

The limits and boundaries of The Town of Middletown shall be as previously fixed and established or hereafter altered according to law and shall be marked and defined according to maps and plots now of record or hereafter recorded in the Office of the Recorder of Deeds in and for New Castle County pursuant to lawful annexation proceedings. Such maps and plots, when so made and approved by the said Council, and signed by the Mayor and Secretary of council, and sealed with the town seal and when recorded in the Office of the Recorder of Deeds, in and for New Castle County, shall be deemed to be the true and correct maps and plots of the town and of all the streets, boundaries, lanes and alleys thereof, and the same, or the record thereof, or a duly certified copy of said record, shall be evidenced in all courts of Law and Equity in the State of Delaware.

#### Section 1.1 Annexation

Consistent with Chapter 1, Title 22 of the Delaware Code, the Mayor and Council shall have the power to annex any contiguous territory upon the petition of two-thirds of the property owners of such contiguous territory, and to extend and apply thereto all laws, ordinances, resolutions, rules and regulations in force within the State of Delaware and said Town, so far as the same may be legally applicable.

### Municipal Elections

#### Section 2.

On the first Monday in March, 1923, elections were held in Middletown and a Mayor and four Councilmembers were elected. From thence forward, elections were held in Middletown on the first Monday in March. In March, 2008, the Council was expanded to comprise a Mayor and six Councilmembers. On the odd years, the Mayor shall be elected to serve for two years, and three Councilmembers shall be elected for two years, and the remaining three Council members shall be elected for two years during the even election years. The said election shall be held by an inspector and at least two judges: The Mayor and Council of Middletown shall appoint the judges, who shall also act as clerks. The Mayor and Council of the Town of Middletown shall, at least twenty (20) days before the said election, give notice thereof, stating the officers to be elected, and the time and place of holding the election, by posting notices according to Delaware law. And annually thereafter, on the first Monday in March, shall be held the general municipal election in said Town, to fill all vacancies in elective offices, whether caused by expiration of the terms or otherwise.

No person shall be a candidate for election unless he shall have filed with Council, written notice of his candidacy. At each general municipal election every citizen of said Town who shall have attained the age of eighteen (18), and who resides in said Town, shall have a right to vote. The inspector and judges of the election shall decide on the legality of the votes offered. Immediately after the election is closed, the votes shall be read and counted in public, and the persons having the highest number of votes shall be declared duly elected and shall continue in office during the term for which they were elected, or until their successors are duly chosen. Immediately after such election, the persons under whose superintendence the election was held, shall enter in a book, to be provided for that purpose, a minute of such election, containing the names of the officers elected and the terms for which they have been chosen to serve, and sign the same. The book containing such minutes shall be preserved by the Council, and shall be evidence. All elections shall be by ballot, and a plurality of votes cast shall make a choice. A failure to hold an election on the day appointed for the same, or the omission to execute any authority conferred by his Act, shall not dissolve the corporation, but the authority of each officer shall continue until the next general municipal election.

**Section 2.1 Absentee Voting**

Consistent with Chapter 75, Title 15 of the Delaware Code, The Mayor and Council may prescribe by ordinance for absentee registration and for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

**Municipal Power****Section 3.**

"The Mayor and Council" elected on the first Monday in March A. D. 1923, and their successors in office, shall be, and they are hereby created a body politic and corporate in law, and shall have power to make and use a corporate seal, and to change, alter and renew the same; and they, and their successors shall be able and capable to sue and be sued, plead and be impleaded in all Courts in this State by the corporate name of "The Mayor and Council of Middletown;" and may have, take, purchase, possess, enjoy and retain, by lawful means, to it and its successors, within said Town, or beyond the limits thereof, lands, tenements and hereditaments, goods, chattels and effects of whatsoever kind, nature and quality, necessary for municipal purposes; and the same to lien, sell, grant, demise, alien or dispose of at pleasure: To receive devises, bequests, gifts and donations of all kinds of property within said Town and beyond the limits thereof, for its use and benefit, or in trust for charitable, benevolent, educational, or other public purposes, and to do all things necessary to carry out the purposes of such devises, bequests, gifts and donations: To acquire or erect public buildings for municipal purposes, and to regulate and control the management of the same:

To lay out, establish and maintain or vacate public parks and squares; to lay out, open, grade, extend, widen, improve or vacate streets and alleys, crossings and other highways; to construct, maintain or vacate sewers, drains, gutters and other works for the disposition of sewage and drainage of said Town; the jurisdiction and control over the squares, streets and alleys, sidewalks, crossings and highways to extend from building line to building line:

To supply said Town and its inhabitants with water, and wastewater treatment facilities, and to protect the water to be used from contamination; to provide for the acquisition or erection and maintenance of such works as may be necessary or convenient for supplying water, and to fix, alter, regulate and control the price and use of water and wastewater treatment so supplied:

To provide for lighting the streets and all public places in said Town, and for supplying the inhabitants thereof with electricity; to provide for the acquisition or erection and maintenance of such works as may be necessary or convenient for supplying such electricity, and to fix, alter, regulate and control the price and use of electricity so supplied:

To grant to persons or corporations, in such manner and upon such terms and conditions as it may prescribe, franchises and privileges to locate, construct, extend and operate any enterprise, in, upon, or through any public park, square, street or other highway; provided that such grant shall be subject to repeal or revocation for the abuse, misuse or nonuse of the franchises and privileges thereunder granted: And provided further that no ordinance granting any such franchise or privilege shall be passed unless it shall receive the affirmative votes of two-thirds of all the members of Council:

To regulate and control the storage, within said Town, of explosives, oils, compounds, or any other dangerously combustible matter: To grant licenses or permits for any lawful purpose, and to define the purposes for which licenses or permits shall be required:

To make and enforce sanitary regulations; to define, abate and remove nuisances, injurious to the public health or dangerous to the inhabitants of said Town; and to prevent the introduction of infectious or contagious diseases, for which said purpose its jurisdiction shall extend to any point within one mile beyond the limits of said Town:

To regulate and control the erection of buildings within said Town, and to require licenses or permits to be taken out before the erection or repair of any building:

To prohibit the going at large of any animal, except under regulations prescribed by it; to lay and collect fines on the owner or harbinger of animal found going at large in violation of such regulations; and to provide for the registration of dogs in said Town:

To make and enforce within said Town such fire, police and other regulations as may be deemed expedient to protect persons and property, maintain the public peace, prevent crimes and promote the public morals:

To borrow money for municipal purposes on the credit of the corporation and to issue bonds therefore in the manner and under the restrictions hereinafter provided:

To provide for the payment of the legitimate expenses of the corporation, and for the annual payment, through the medium of a sinking fund, or otherwise, of a portion of its bonded indebtedness, now existing, or hereafter to be created:

To prescribe the extent of steps, porches, cellar doors and other outlets to buildings; to regulate the construction and repair of chimneys, and to regulate party walls:

To provide for the submission of questions relating to the corporation to the qualified voters of the Town, as hereinafter provided:

To prescribe the violations of ordinances by fine or imprisonment; as determined by Mayor and Council by ordinance.

To make general assessments of property in said Town, and assess and collect taxes and other rates and charges thereon, for municipal uses and purposes; provided, however, that The Mayor and Council of Middletown shall make no general assessments or collect any taxes or other rates and charges, as aforesaid, with respect to unimproved land lying within said Town or which may hereafter be annexed to and become a part of said Town so long as such land shall remain unimproved and shall not abut or be adjacent to an improved street within said Town; provided further that, upon the installation of an improved street in said Town, unimproved land abutting thereon or adjacent thereto shall thereafter be subject to assessment and taxation for municipal uses and purposes to the extent that such unimproved land fronts upon such improved street and to the depth of such lot or lots as shall appear on such plot or plan of said land as may be furnished or submitted to the Mayor and Council by the owner of such unimproved land after the Mayor and Council shall have given written notice unto such owner to furnish or submit such a plot or plan within a period of time to be fixed in said notice; if, however, such owner shall fail to submit or furnish such a plot or plan within the time prescribed, then such land shall be subject to assessment and taxation to the extent that such unimproved land fronts upon such improved street and to such reasonable depth as shall be fixed by the Mayor and Council after the Mayor and Council shall have given consideration to the depth of lots in close proximity thereto; provided further that "unimproved land" as used in this paragraph shall include but shall not be limited to farm and agricultural lands, even though farm residences and buildings exist or are erected thereon. To make and collect special assessments of said property for the costs of any local or general improvement; and to enforce the payment of such taxes and other rates and charges and special assessments.

To exercise all municipal powers necessary to the proper administration of the municipal government, and for the wellbeing of the inhabitants of said Town, whether said powers be expressly enumerated herein or not.

### **Composition of Council**

#### **Section 4.**

There shall be one executive officer called the Mayor, six members of Council, one Treasurer, and such other officers as the Council, by ordinance, may create and appoint.

It shall be the duty of each Councilmember to propose necessary and appropriate legislation and resolutions for Council's consideration; serve on committees designated by the Mayor and Council; attend public hearings on proposed legislation; be available and responsive to constituents, and perform all other duties as provided in the Charter and by Delaware law.

**Eligibility****Section 5.**

No person shall be eligible to hold office who is not at the time of his election or appointment, a citizen of the State of Delaware, and who has not been a resident of the Town for at least one year. The Mayor and a majority of Council must have resided in the Town at least two years before election.

Every officer of said Town, before he enters upon the duties of his office, shall take an oath or affirmation to support the Constitution of the United States, and the Constitution of the State of Delaware, and that he will perform the duties of the office to which he has been appointed or elected, with fidelity.

The Treasurer shall, before entering upon the duties of his office, give bond to the corporation, in such amount as shall be determined by the Council, and with surety, to be approved by the Council, conditioned for the faithful performance of the duties of his office. The Treasurer may or may not be a member of Council; he shall, from time to time, prepare and present to Council such reports as may be required of him. The Council may, by ordinance, or otherwise, require such other officers of the Town to give bond in such manner and with such conditions as it may deem proper.

The Mayor and Council shall determine the annual salary of the Mayor and Councilmembers by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the members of the Mayor and Council elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. The Mayor and members of Council shall receive reimbursement for actual time and necessary expenses as supported by receipts incurred when on official business, up to but not exceeding their annual salary. The salary of the Mayor may exceed that of the Councilmembers.

The salaries, fees, or compensation of appointed officers shall be fixed by resolution of Council.

**Death of Elected Officers****Section 6.**

In case of death, removal from the Town, resignation, or refusal to act, of any elective officer of said Town, or in case of any person elected or appointed to any office in said Town who shall be ineligible for the same, or who shall fail to bond for the faithful performance of the duties of such office (when such bond is required by law or ordinance) before the time fixed for entering upon the duties of his office, such office shall thereupon become vacant, and the Council shall appoint a person to supply such vacancy until the same can be filled at the next general municipal election; any officer elected or appointed to fill any such vacancy shall hold for the residue of the term of the officer whose place he supplies.

**Duties of Mayor****Section 7.**

It shall be the duty of the Mayor to see that the laws and ordinances of the said Town are faithfully executed. He shall have the custody of the seal of the corporation and the right of affixing the same. He shall approve or veto all ordinances, acts or resolutions of Council. If approved, he shall write "approved;" if not approved, he shall write "not approved," and shall sign the same: At the same time of writing his disapproval, he shall state his objections; whereupon the Council may reconsider its vote, and if two-thirds of the members of Council shall favor such ordinance, act or resolution, such ordinance, act or resolution shall become a part of the ordinances, acts and resolutions of said Town.

The Mayor, or his designee, shall countersign all drafts of the Treasurer, with his approval or non-approval: If not approved, the Treasurer shall not pay such draft unless the Mayor's non-approval shall be overruled by Council, as hereinafter provided. All elected officials, officers, and employees having the ability to act upon Town accounts shall be a principal to a surety bond contract written in such amount as shall be determined by the Mayor.

The Mayor shall preside at all meetings of Council, and shall appoint all committees, subject to confirmation by Council, and shall be recognized as the head of the Town Government. The Mayor shall

recommend, subject to confirmation by a majority of the members of Council, a Town Manager to oversee and manage the administrative affairs of the Town.

In addition to the duties and powers set out above, the Mayor shall have the power to vote on any matter before council, but only in the event of a tie vote.

### **The Vice Mayor**

#### **Section 8.**

The Mayor shall appoint a Vice-Mayor, subject to confirmation by Council, who shall act as Mayor during the absence or disability of the Mayor, and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term. However, the Vice-Mayor may vote on all resolutions, motions and ordinances when temporarily acting as Mayor. However, in the event of a tie vote, the motion dies until consensus can be reached by Council.

### **Regular Meetings**

#### **Section 9.**

The regular meetings of the Council shall be held monthly, at such time as it may fix by resolution.

At the first regular meeting in March the Council shall appoint a Secretary, whose appointment may be recalled at any time, for cause deemed sufficient, by a majority of Council.

It shall be the duty of the said Secretary to record all the proceedings of the Council, and keep a correct journal of the same in a book to be provided for that purpose; and also a record of all the papers relative and belonging to said Town, all of which shall be carefully preserved and delivered to his successor in office. His compensation shall be fixed by Council.

No ordinance, except in cases of emergency, shall be passed by Council other than at a regular meeting; nor unless such ordinance has been introduced at some previous regular meeting and copies thereof posted according to Delaware law.

The Secretary shall sign all drafts on the Treasury, pursuant to a resolution passed by a majority of Council, and present them to the Mayor for his signed approval. If the Mayor shall return any such draft to the Secretary with his non-approval, the Secretary shall present it to the Council; and, if two-thirds of the Council shall overrule the Mayor and each of them countersign the draft, it shall be paid by the Treasurer.

### **Powers of Council**

#### **Section 10.**

The streets, sidewalks, lanes, alleys, pavements, curbs, gutters, light, power, sewer, and water, in the Town of Middletown shall be under the supervision, management and control of the Council.

Whenever Council shall deem it expedient and needful for the public good and convenience that any sidewalk or street or portion thereof within said Town should be paved or repaved or that any curbing should be laid or reset or repaired, the Council shall have the power to cause the sidewalk or street or portion thereof to be paved or repaved, repaired or relaid, and to cause the curbing or gutters to be laid, reset, or repaired with such material or materials and according to such specifications as it shall determine. Whenever Council shall deem it expedient and needful for the public health and welfare that any sewers, mains and pipes be laid or installed on any property or on any street or alley in said Town or any public road adjoining or extending to said Town, the said Council shall have the power and it is hereby authorized to proceed with the laying and installing of said sewers, mains and pipes in the manner hereinbefore provided pertaining to the improvements and repairs to sidewalks, streets, curbs and gutters, and to cause same to be done and costs recovered as therein provided. In addition, whenever Council shall so determine, it may in like manner cause any property in the Town to be connected with the water and sewer mains and to recover the costs therefore after like notice and in like manner as hereinbefore provided for the improvements and repairs to streets, sidewalks, curbs and gutters.

**Manufacturing Plants****Section 11.**

If any person or persons or corporation shall hereafter set up a plant for manufacturing purposes within the limits of said Town, the Council shall have power to remit the levying of taxes imposed thereon for Town purposes for a period not exceeding ten years; but such remission of taxes shall remain in the discretion of Council.

**Exhibitions within the Town****Section 12.**

No circus, menagerie, theatrical or minstrel company, or exhibition of any kind shall be exhibited, or bills posted, or street parade had therefore within the limits of said Town; nor shall any person or persons, or corporation, open or set up, or attempt to open or set up therein, any pool or billiard room, or any other room or device for amusement, for which a charge is made, direct or indirect; nor any temporary or transient place of business, for the purpose of selling or offering for sale, by auction or otherwise, goods, wares or merchandise; or peddle, take orders for the delivery of goods, wares and merchandise within the limits of said town, without first having obtained permission of Council, which shall have power to issue license therefore, the charge for which shall remain in its discretion.

Provided that the foregoing provision shall not apply to entertainments of any sort by the citizens of said Town, nor to any farmer, trucker or fisherman selling produce or sea food of his own growing or catch; nor to any salesman taking orders from, or selling to, any licensed merchant of said Town.

Any person or persons or corporation violating any of the provisions of this Act shall be fined as determined by ordinance approved by Mayor and Council.

**Road Tax****Section 13.**

No road tax shall be levied upon any of the property within the limits of said Town by any other taxing authority within the State of Delaware than the Council of said Town, which shall levy all taxes necessary for the maintenance of the streets, lanes and alleys of said Town.

**Budget****Section 14.**

The Council elected on the first Monday in March A. D. 1923, and annually thereafter, shall, on or before the first Monday in July, meet and ascertain, as near as may be, the amount necessary to cover the net expense of the government of said Town for the current fiscal year, including, but not limited to, the maintenance of streets, police, assessment, collection of taxes and cost of electricity, water, sewer and trash collection; and shall make up a budget containing the items and estimated amounts necessary to cover each and every branch and item of said Town government. And immediately after the assessment and valuation shall have been finally settled and adjusted under the provisions of this Act, the said Council shall proceed to levy a tax on the real and personal state, thus valued and assessed, in just and equal portions and rates, sufficient to cover the aggregate of said budget.

**Property Assessment Procedure****Section 15.1 Adoption of New Castle County Assessment**

The Mayor and Council shall use the assessment by the New Castle County Board of Assessments for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. The assessment of values established by New Castle County shall be

conclusive for purposes of levying town taxes and the Mayor and Council shall have no authority to hear appeals regarding same.

**Section 15.2 Payment of Taxes**

All taxes shall be paid to the Town Clerk or Town Treasurer at the Town Hall during regular business hours. All taxes are due on September 30 (or on the next banking day, if September 30 is a weekend or holiday) of each year. On all taxes paid after September 30 there shall be paid an accrued penalty of one and one-half percent (1.5%) per month or fraction thereof for each month unpaid after due date. All tax bills shall be sent out on or before August 1 of each year. Appropriate legal action shall be taken against all delinquent taxables whose taxes have become delinquent.

**Section 15.3 Exemptions from Payment of Taxes**

The Mayor and Council may establish an annual exemption from payment of Town taxes for all Town residents who are at least 65 years of age or older at the time the fiscal year commences.

**Section 15.4 Collection of Delinquent Taxes - Generally**

- A. Tax Liens. The provisions of Title 25, Delaware Code Annotated, Chapter 29, as amended, with reference to tax liens shall be deemed and held to apply to all taxes laid and imposed under the provisions of this Charter.
- B. Debt Action. The Town may recover the amount of the tax due in an action of debt against the delinquent taxpayer in any court of competent jurisdiction; and it shall be sufficient to set forth that the action is to recover a specified sum of money, being a tax or taxes assessed against property owned by the defendant, in whole or in part, together with such description of the property as will be sufficient to identify the same and the year for which the taxes were levied. The right of appeal shall be the same as in other civil actions.

If a judgment be rendered in favor of the Town, there shall be an allowance for the additional expense in attending to the suit, including counsel fees. The amount of accrued interest, which shall be taxed by the court in the costs, thereupon execution shall issue against the real estate of defendant. No execution against the real estate shall issue except out of the Superior Court. Where such judgment is recovery from a lower court of competent jurisdiction and it is the desire of the Town to proceed against the real estate of the defendant, the Town shall take a transcript of the judgment from such lower court and cause the same to be entered in the Superior Court in and for New Castle County. When such transcripts are entered, the subsequent proceedings shall be the same as upon other judgments. The lien of the judgment, as aforesaid, shall be deemed to relate back and take effect from the date of the assessment roll.
- C. Remedies Cumulative. The remedies herein provided are cumulative and, if two or more proceedings are pending to recover the amount due for taxes upon the same property for any year, neither proceeding shall be pleaded in bar or in suspension of other proceedings. However, when the full amount due for taxes upon the property for the year shall have been paid to the plaintiff in any proceeding, together with all costs in all proceedings then pending, the plaintiff shall enter upon the records thereof discontinuances thereof.
- D. Establishment of Collection Methods. Specific procedures for the collection of delinquent taxes generally provided under this and the preceding Sections, where not otherwise provided for, shall be set by the Council by ordinance. All other procedures not covered by this and the preceding Sections shall be the same as are provided by law.
- E. Fees and Costs. The fees and costs to be fixed in all monition proceedings and all other delinquent tax recovery methods under this and the preceding Sections, where not otherwise provided for, shall be set by the Council by ordinance. All other charges not covered by this and the preceding Sections shall be the same as are provided by law.

**Power to Borrow Money****Section 16. Borrowing for Current Expenses**

Whenever the needs of the town shall require more money than is, at the time, in the town treasury from current receipts, the Council shall be authorized and empowered to anticipate current revenue by borrowing such amounts as are needed. The aggregate amount of outstanding principal from any such borrowing or borrowings under this subparagraph shall not exceed the maximum amount permitted under Federal tax law. Any borrowings under this paragraph shall, by their terms, be repayable in full within thirteen (13) months of the date of each such borrowing or the maximum time period permitted under Federal tax law, whichever is greater.

To exercise the power aforesaid the Council shall adopt a resolution to that effect, which resolution shall be by roll call and require the affirmative vote of at least a majority of the members of the Council. The indebtedness created under this provision shall be secured by a promissory note or notes or other evidence of indebtedness of the town, and the full faith and credit of the town may be deemed to be pledged thereby, and no officer nor Councilmember shall be personally liable for the payment of such notes because it is signed by them as officers of The Town of Middletown, and is authorized by a resolution of the Town Council. Such short-term debt shall not be considered as part of the bonded debt of the town when limitations under indebtedness, as set forth elsewhere in this Charter, are computed.

**Section 17. Borrowing for Capital Expenses**

- (a) The Mayor and Council of Middletown shall have the power to borrow upon the full faith and credit of said Town, a sum or sums not to exceed Four Percent of Total Assessed Value in principal amount outstanding at any one time, for municipal purposes of any character whatsoever, pursuant to a resolution, passed by a majority of all council, and give its obligation therefore, subject to a fifteen percent (15%) borrowing limitation set forth in Section 17(b). All obligations or bonds authorized by this Act shall be signed by the Mayor and countersigned by the Treasurer, and sealed with the corporate seal. The form of the bonds or certificates of indebtedness authorized under this section, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Mayor and Council of Middletown. Any such bonds may be sold at a public or private sale as determined by the Mayor and Council of Middletown. All bonds or other kinds or forms of certificates of indebtedness issued by the Mayor and Council of Middletown pursuant to the provisions of this Section, and the interest thereon, shall be exempt from taxation from the State of Delaware or any political subdivision thereof. The aggregate principal amount of debt outstanding from any such borrowing or borrowings under Section 17(a) shall at no time exceed Four Percent of Total Assessed Value.
- (b) The Mayor and Council of Middletown may borrow money for municipal purposes of any character whatsoever, upon the full faith and credit of said Town, secured by revenues pledged to secure and repay such indebtedness, or both; and issue bonds or other evidence of indebtedness; but in no case shall the total indebtedness of every kind (including amounts borrowed pursuant to Section 17(a), but exclusive of amounts payable solely from revenues or borrowed pursuant to Section 16) exceed fifteen percent (15%) of the then last assessed value of all real estate in said Town. Before borrowing any sums (other than sums borrowed pursuant to Section 16 or Section 17(a) hereof) the Mayor and Council of Middletown shall submit to the qualified voters of said Town the question of borrowing such sum or sums of money, and such borrowing shall not be authorized unless first approved by a majority of the votes cast at a special election to be held for that purpose. Notice of such special election stating the amount proposed to be borrowed (which may be stated as a not-to-exceed amount) and, when borrowed, what the aggregate of all the municipal indebtedness will be, and the purpose to which the loan will be applied, shall be posted according to Delaware law at least ten (10) days prior to said special election.
- (c) At such special election, any person who is entitled to vote in the annual Town election, if it were held on that day, shall be entitled to vote. (For purposes of this Section, 'entitled to vote'



- shall include 'registered to vote' if voter registration is required for the annual Town election). The said election shall be by ballot or voting machine, if required by State law, and under like provisions and by like officers as herein provided for holding general municipal elections. The ballots shall be printed "For Bond Issue' or 'Against the Bond issue' (or if for multiple projects, 'For' or 'Against' a Bond Issue in an aggregated stated principal amount for a stated project. If a majority of the votes cast be 'For the Bond Issue' (or if multiple projects, For a bond issue in the aggregate principal amount for a stated project), then the Mayor and Council shall have the authority to borrow the sum or sums of money and issue the bonds therefore, pledging the full faith and credit of said Town.
- (d) If revenue bonds are issued, each such bond shall recite in substance that said bond, including interest therein, is payable from the revenue pledged to the payment thereof, and that said bond does not constitute a debt of the Town of Middletown within the meaning of the bonded indebtedness limitation contained in Section 17(b) above; provided, however, that in the event of some emergency, the Town may temporarily borrow, advance or loan such amount as is necessary to meet current interest on outstanding bonds, such advance or loan to be repaid to the Town of revenue subsequently received from the undertaking. If revenue bonds are issued, the Mayor and Council shall prescribe and have collected reasonable rates, fees or charges for the service, facilities and accommodations of said undertaking and shall revise such rates, fees or charges from time to time whenever necessary so that such undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will procure revenue at least sufficient to pay, when due, all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefore, and to provide for all expenses of operation and maintenance of such undertaking, payments in lieu of taxes, depreciation and other reserves. Any bonds or indebtedness secured by both revenues and the full faith and credit of the Town, shall be subject to the limitations contained in Section 17(b).
- (e) In connection with development plans, the Mayor and Council have the power to impose, upon new development or construction, upon first-time occupancy of new construction, or upon annexed property such 'impact fees' as are reasonably calculated to recover the proportionate cost of installing, enlarging, improving or expanding public or municipal improvements, including sewer, water, electric, gas, roads, parking, police and parks; and/or to contribute to the costs of operations of those volunteer fire companies and/or ambulance/paramedic companies providing services within the Town.
- (f) Any bonds, notes or evidence of indebtedness issued pursuant to this Section and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. The form of the bonds or certificates of indebtedness authorized under this Section, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof, and any other relative or appurtenant matter pertaining thereto shall all be determined by the Mayor and Council of the Town of Middletown, by resolution. Any such bonds, notes or evidences of indebtedness may be sold in a public or private sale as determined by the Mayor and Council.

**Section 18. Refunding Indebtedness**

If the Town shall irrevocably deposit in trust with a Delaware bank or trust company that has offices in the State of Delaware, amounts sufficient, together with investment proceeds thereof, to pay principal and interest on indebtedness of the Town when due and upon maturity or earlier redemption, such indebtedness shall not be deemed outstanding for purposes of the debt limitations contained herein. Any bonds or other debt instruments issued by the Town to currently or advance refund-existing indebtedness shall not require a special election, provided that the refunding results in debt service savings to the Town.

**Section 19. Sinking Fund**

"The Mayor and Council of Middletown" shall have authority to provide for a sinking fund for the redemption of any and all bond issues now outstanding against said Town, or which may be hereafter issued by the Town, at or before their maturity.

**Survival of Power and Validation****Section 20.**

- (a) This Act shall operate to amend, revise and consolidate, 'An Act to Re-Incorporate the Town of Middletown' being Chapter 165, Volume 23, Laws of Delaware, and the various amendments and supplements thereto, and to repeal all such parts of said Act and its amendments and supplements as are manifestly inconsistent with the provisions of this Act. All powers conferred upon or vested in the Town of Middletown by any Act of Law of the State of Delaware not in conflict with the provisions of this Charter, are hereby expressly conferred upon, and vested in The Town of Middletown and/or the Town Council of the Town of Middletown, precisely as if each of the said powers was expressly repeated in this Charter.
- (b) All ordinances and resolutions heretofore lawfully enacted or adopted by the "The Commissioners of the Town of Middletown," or the "Mayor and Council of Middletown", and now in force, shall so remain until repealed, modified or altered by "The Mayor and Council of Middletown" under the provisions of this Charter; all the acts and doings of the Mayor and Council of Middletown or any officers or employees of the Town of Middletown lawfully done or performed under the provisions of any law of this State, or of any ordinance of the Town of Middletown prior to the approval of this Act, are hereby ratified and confirmed; all taxes, debts, fines or penalties, assessments and forfeitures due the Town of Middletown shall be deemed to be due and all debts due from the Town of Middletown shall be deemed to be due and the same shall remain unimpaired until paid; and the power, right and authority to collect taxes imposed under the provisions of this Act, and the process which may be employed hereunder, shall be deemed to apply and to extend to all unpaid taxes imposed under the Charter of the Town of Middletown and all amendments and supplements thereto; the bonds given by or account of any Official of the Town of Middletown shall not be impaired by or affected by the provisions of this Act, but the Town of Middletown shall succeed to all the benefits of said bonds; all valid laws heretofore passed relating to or concerning the Town of Middletown or authorizing the borrowing of money and the issuing of bonds on the credit of the Town of Middletown shall be and remain valid and good as heretofore, and shall be unaffected and unimpaired by this Act.

**Severability Clause****Section 21.**

If any provision of this Act or the application thereof to any provision or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application; and, to that end, the provisions of this Act are declared to be severable.

**Construction of Provision of Charter****Section 22.**

In construing this Act, every word importing the masculine gender only may be extended to and include females as well as males.

The word "Council" shall be construed to mean the "Mayor and Council" of Middletown.

The words land or lands or real estate shall be construed to include lands, tenements and hereditaments.

## Public Act

### Section 23.

This Act shall be deemed and taken to be a public Act."

Approved February 17, A. D. 1923.

56 **Del. Laws**, c. 249 was enacted by the General Assembly contingent upon voter approval which was not obtained.

59 **Del. Laws**, c. 251 was enacted by the General Assembly contingent upon voter approval which was not obtained.

(33 **Del. Laws**, c. 128, 2/17/23, as amended by 49 **Del. Laws**, c. 257; 50 **Del. Laws**, c. 493; 51 **Del. Laws**, c. 308; 63 **Del. Laws**, c. 302; 69 **Del. Laws**, c. 34; 70 **Del. Laws**, c. 10; 73 **Del. Laws**, c. 57; 75 **Del. Laws**, c. 10; 76 **Del. Laws**, c. 230, 5/22/08)