

PART I.

THE CHARTER.

Editor's note.--The Charter herein set out is contained in an Act of the General Assembly of Virginia, approved April 5, 1954 (Acts 1954, ch. 477), and all acts amendatory thereof. Acts amending the Charter are cited in parentheses following the section affected, unless so indicated, the section derives unchanged from the original act.

Catch lines and subcatchlines have been supplied for editorial purposes. They should not be construed to restrict, limit or affect the contents of the sections or subsections. Words in brackets have been added for the purpose of clarification. A frontal analysis has been added for the convenience of the user and a uniform system of capitalization has been employed.

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An Act to provide a new Charter for the Town of Middletown; and to repeal Chapter 370 of the Acts of Assembly of 1946, approved March 28, 1946, which provided a Charter for the town.

Be it enacted by the General Assembly of Virginia as follows:

The town shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties and obligations now appertaining to the incumbent on said town as a

municipal corporation; and shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by proper ordinance.

Article I. The Town Corporate.

Sec. 1. Body politic and corporate; powers generally.

The inhabitants of the territory embraced within the present limits of the Town of Middletown, in Frederick County, Virginia, as hereinafter defined, or as the same be hereafter altered or established by law, shall constitute and continue a body politic and corporate, to be known and designated as the Town of Middletown, and as such shall have and may exercise all powers which are now, or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein. No enumeration of particular powers by this Charter shall be held to be exclusive.

Article II. Corporate Limits.

Sec. 1. Repealed by Acts 1972, ch. 30.

Sec. 1.1. Generally.

The territory embraced within the limits of the Town of Middletown shall be as set forth in decree of the Circuit Court of Frederick County, Virginia, dated October 27, 1966, and recorded in the clerk's office of the Circuit Court of Frederick County, Virginia, in Law Order Book 43 at Page III. (Acts 1972, ch. 30, S 1.)

Article III. Administration and Government.

Sect. 1. Continuation of term of mayor and councilmen.

The present mayor and councilmen of the Town of Middletown shall continue in office until the expiration of the term for which they were elected, or until their successors are duly elected and qualified.

Sec. 2. Repealed by Acts 1972, ch. 30.

Sec. 2.1. Election of mayor and councilmen.

Six residents and qualified voters of the Town of Middletown shall be elected as councilmen of the town on the first Tuesday in May, nineteen hundred seventy-two. In this election, three councilmen shall be elected to terms of two years' duration and three councilmen to terms of four

years' duration, the three councilmen receiving the greatest number of votes in said election to fill the four-year terms. Thereafter, as their terms expire, three councilmen shall be elected each two years for terms of four years each, such elections to be held on the first Tuesday in May, nineteen hundred seventy-four and each two years thereafter. On the first Tuesday in May, nineteen hundred seventy-two, and every four years thereafter, there shall be elected one qualified voter of the town who shall be denominated mayor. The mayor and councilmen shall constitute the town council and be the governing body of the Town of Middletown. They shall enter upon the duties of their offices on the first day of July next succeeding their election, and shall continue in office until their successors are duly qualified. Every person elected as councilman shall take an oath faithfully to execute the duties of his office to the best of his judgment and ability. The person elected as mayor shall take the oath prescribed by law for state officers. (Acts 1972, ch. 30, S 1.)

Sec. 3. Appointment of registrar and officers of election; conduct of elections.

There shall be appointed for the town a registrar and officers of election in the manner provided for by general law. All elections held in the town shall be conducted in accordance with general law; the electorate shall be that prescribed by general law.

Sec. 4. Council to be judge of elections; conduct of councilmen; filling vacancies on council.

The council shall be judge of the election, qualification and return of its members; may fine them for disorderly conduct and, with the concurrence of two-thirds, expel a member. If any person returned be adjudged disqualified, or be expelled, a new election to fill the vacancy shall be held on such day as the council prescribes. Any vacancy occurring otherwise during the term for which such person was elected shall be filled by the council by the appointment of anyone eligible to such office. In the event of the failure of the council to fill such vacancy within fifteen days, the Circuit Court of Frederick County shall make such appointment to fill the vacancy. A vacancy in the office of mayor shall be filled by the council from the electors of the town and any member of the council may be eligible to fill such vacancy.

Sec. 5. Quorum of council.

A majority of the members of the council shall constitute a quorum for the transaction of business.

Sec. 6. Salaries of councilmen and mayor.

Each member of the council may receive a salary to be fixed by the council, payable at such time and in such manner as the council may direct, but the salary paid to any one member during any year shall not exceed the sum of one thousand two hundred dollars per annum. The mayor may receive a salary to be fixed by the council, payable in such manner and at such times as the council may direct, not to exceed the sum of two thousand four hundred dollars per annum.

Sec. 7. Powers and duties of mayor generally.

The mayor shall preside at the meetings of the council and perform such other duties as are prescribed by this Charter and by general law and such as may be imposed by the council consistent with his office. The mayor shall have no right to vote in the council, except in case of a tie he shall have the right to break the same by his vote. He shall take care and see that the by-laws, ordinances, acts and resolutions of the council are faithfully executed and obeyed. He shall be ex-officio conservator of the peace within the town and within one mile of its corporate limits. He shall see that peace and good order are preserved and that persons and property within the town are protected. He shall authenticate by his signature such documents and instruments as the council, this Charter, or the laws of the Commonwealth require. He shall from time to time, recommend to the council such measures as he may deem needful for the welfare of the town.

Sec. 8. Vice-mayor.

The council shall, as soon as practicable after qualification, and biennially thereafter following the regular municipal election, appoint one of its members as vice-mayor. The vice-mayor, during the absence or disability of the mayor shall perform the duties and be vested with all the power, authority and jurisdiction of the mayor; in the event of a vacancy for any reason in the office of mayor, he shall act as mayor until a mayor is duly appointed by the town council or is elected. The member of the council who shall be chosen vice-mayor shall continue to have all the rights, privileges, powers, duties and obligations of councilman even when performing the duties of mayor during the absence or disability of the mayor of the town, but when presiding over the council as vice-mayor, he shall not have the right in case of a tie to cast a vote breaking such tie.

Sec. 9. Meetings of council.

The council shall, by ordinance, fix the time and place for their regular meetings, which shall be held at least once a month. Special meetings may be called by the clerk at the instance of the mayor or any three members of the council in writing; no other business shall be transacted at a special meeting except that stated in the call, unless all members be present and consent to the transaction of such other business. The meetings of the council shall be open to the public except when, in the judgment of the council, the public welfare requires executive meetings.

Sec. 10. Minutes of council.

The council shall keep a minute book, in which its clerk shall note the proceedings of the council, and shall record proceedings at large on the minute book and keep the same properly indexed.

Sec. 11. Clerk of council.

The council shall appoint at its first regular meeting in September after its election, a clerk of the council who shall hold office at the pleasure of the council. He shall attend the meetings of the council and keep its minutes and records and have charge of the corporate seal and shall attest the same. He shall keep all papers required to be kept by the council, shall publish reports and ordinances as are required to be published and shall perform such other duties as the council may require. His compensation shall be fixed by the council. Any vacancy in this office shall be filled by the council.

Sec. 12. Rules of council; vote necessary for certain actions by council.

The council may adopt rules for regulating its proceedings, but no tax shall be levied, or corporate debt contracted, except by a recorded two-thirds vote of all the members elected to the council or appropriation of money exceeding the sum of one hundred dollars be made, except by a recorded affirmative vote of a majority of all the members to the council.

Sec. 13. Town treasurer.

The council shall appoint at its first meeting in September, or as soon as practicable thereafter, a treasurer who shall hold office for a term of two years. The council may provide a salary for the treasurer. He shall give such bond, with surety and in such penalty as the council prescribes. He shall receive all money belonging to the town, and keep correct accounts of all receipts from all sources and of all expenditures of all departments. He shall be responsible for the collection of all taxes, license fees, levies and charges due to the town, and shall disburse the monies of the town in the manner prescribed by the council as it may by ordinance direct. The treasurer shall make such reports and at such time as the council may prescribe. The books and accounts of the treasurer shall be examined and audited at least once during the term for which he is appointed by the auditor of public accounts of the state, such examination and audit to be reported to the council.

Sec. 14. Depository of town funds.

The council may designate the place of deposit of all town funds, which shall be kept by the treasurer separate and apart and not co-mingled with any personal or other accounts.

Sec. 15. Town sergeant.

The council may appoint at its first regular meeting in September or as soon as practicable thereafter, a town sergeant, who shall also be chief of police and have all the power vested in town sergeants by general law. He shall hold office at the pleasure of the council. His duties shall be such as the council prescribes. He shall be vested with the powers of a conservator of the peace. His compensation shall be fixed by the council.

Sec. 16. Police justice.

The council may appoint a police justice for the town pursuant to section 16-129 of the Code of Virginia, who shall be a resident of Frederick County or the county seat thereof, and who shall serve a term of two years or until his successor is appointed and qualified. The police justice is hereby invested with the right and authority to issue warrants, summon witnesses and try cases involving violations of town ordinances; and he shall be compensated in such manner and amount as the council may provide.

The conduct of all proceedings and trial and disposition of cases by or before the police justice and the fees and costs assessed by him shall be the same as provided by general law relating to trial justices. All fees, costs and fines imposed and collected by the police justice shall be paid into the town treasury unless the council by ordinance directs some other disposition thereof. Appeals from the decisions of the police justice shall be allowed and taken in the manner provided by general law for appeals from trial justices, and shall be to the Circuit Court of Frederick County.

The Council shall provide a courtroom for the conduct of such proceedings and trials, and for necessary records, equipment and supplies incident thereto. The council may appoint a police court clerk to serve at the pleasure of the council, to assist the police justice and who shall after appointment and qualification be empowered to grant bail in matters within the trial jurisdiction of the police justice.

If there be appointed a police justice, the council may also appoint a substitute police justice for the town who shall have the same residency qualifications as the police justice, and whose appointment, qualification and term shall be the same as the police justice. In the event of the disability of the police justice to perform the duties of his office due to sickness, absence, unavailability, vacation, or otherwise, the substitute police justice shall be vested with and may exercise all the rights and authority of the police justice, and he shall be compensated in such manner and amount as the council may provide.

Notwithstanding the provisions of this section for the appointment of a police justice and a substitute police justice, the council by ordinance may invest the mayor as such with all or any part of the rights, authority, duties and functions prescribed for the police justice, to exercise the same and act when the office of police justice is vacant, or in the event of the disability of the police justice and the substitute police justice, if there be one, to perform the duties of his office due to sickness, absence, unavailability, vacation or otherwise. In any such event, the clerk mentioned above in this section shall have the same duties and powers as there specified.

Sec. 17. Appointment, etc., of officers generally.

In addition to the officers of the town specifically provided for herein, the council may appoint such other officers, including a town clerk who may be the same person as the clerk

mentioned in section 11 above, as it may deem necessary, and define the duties, fix the compensation, set the qualifications and terms of office and require proper bonds of each. The council may provide for the payment of bond premiums for the official bond of any of its officers.

Sec. 18. Ordinances, resolutions and by-laws.

All ordinances, resolutions and by-laws passed by the council shall take effect at the time indicated in such ordinances, resolutions or by-laws, but in event no effective date shall be set forth in any such ordinances, resolutions or by-laws passed by the council, the same shall become effective thirty days from passage.

Article IV. Taxation and Finance.

Sec. 1. Powers of town council generally.

The town council shall have control of taxation and finances for municipal purposes. It shall have the following powers:

(1) To prepare or cause to be prepared annually a budget showing the estimated receipts and proposed expenditures for town purposes as required by general law, and to publish the same.

(2) To raise annually by levy and collection of taxes and assessments in the town on all such property, real and personal, as is now or may hereafter be subject to taxation by towns by the laws of the Commonwealth, such sums of money as the council thereof may deem necessary for the purposes of the town in such manner as the council deems expedient in accordance with this Charter and the laws of this state; provided, however, that it shall impose no taxes on the bonds of said town.

(3) To impose special or local assessments for local improvements and enforce the payment thereof, subject to such limitations as may be prescribed by the laws of the Commonwealth, as may be in force at the time of the imposition of such special or local assessments.

(4) To contract debts in the name of and for the use of the town and make and issue, or cause to be made and issued, as evidence thereof bonds, notes and other obligations, within the limitations prescribed by the laws of this state concerning bonds issued by the town upon credit of the town, or solely upon the credit of specific property owned by the town, or solely upon the credit of income derived from property used in connection with any public utility owned and operated by the town.

(5) To borrow money temporarily, pending the issuance and sale of any bonds, notes or other obligations authorized by this Charter, or in anticipation of the receipt of taxes and revenue of the current fiscal year, and to issue notes or other evidences of indebtedness therefore, and from time to time to renew such temporary loans or to use current funds to be ultimately repaid from

the proceeds of said bonds, notes or other obligations, or from the town taxes and revenues, as the case may be.

(6) To expend the money of the town for all lawful purposes.

(7) To levy a tax or a license on any slot machine or similar device of any kind, whether a license may be required therefore by the state or not, and may, if permitted by general law, exceed the state license if any be required and may provide penalties for any violation thereof.

(8) To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals and other similar shows or fairs, or prohibit the holding of the same, or any of them within the limits of the town; and may assess a license fee for holding any of the foregoing within one mile of the town which shall only be sufficient to provide regulation and protection. This section shall not be construed to prohibit a resident mechanic or artist from exhibiting any production of his own art or invention without compensation, nor shall any license be required of any industrial arts exhibit nor of any agricultural fair or the shows exhibited within the grounds of such fair or fairs, during the period of such fair, whether an admission be charged or not, nor of resident persons performing in a show or exhibition for charity or other benevolent purposes, nor of exhibitions of volunteer fire companies whether an admission be charged or not. Whenever such show, exhibition, or performance is given, whether exempted by the terms hereof or licensed, those engaged therein and operating under either such license or exemption, shall be exempt from a licensing tax for performing or acting thereat; provided, however, that this shall not be construed to allow without license a performance for charitable or benevolent purposes by a company, association or persons, or a corporation, who makes it their business to give exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association or persons, or corporation, for benevolent or charitable purposes, it being the intent and meaning of this section that every company, association or persons, or corporation, which makes its business that of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay the license tax required by law.

(9) To impose license or ordinance upon business, trades, professions or callings, and upon persons, firms, associations or corporations engaged therein or offering to do business within the boundaries of the town, whose principal office is or is not located in the town, except when prohibited by general law, whether or not a license may be required therefore by the state. The fee for such license may exceed the state license fee if any be required.

(10) For every license issued or transferred under this Charter, there may be prescribed by ordinance a reasonable charge for fee, for issuing or transferring the same. Such charges or fees shall be paid into the town treasury.

(11) A lien shall exist on all real estate within the corporation limits for taxes, levies, penalties or assessments in favor of the town, levied or assessed thereon from the commencement of the year for which the same was levied or assessed and the penalties and

procedure for collecting such taxes and for selling real estate for town taxes shall be the same as provided by the general laws of the Commonwealth. The council shall have the benefit of all other remedies for the collection of town taxes which are now or may hereafter be permitted under the general laws of the Commonwealth, including the power to distrain goods and chattels for failure to pay taxes levied thereon.

Article V. Property.

Sec. 1. Powers of town council generally.

The town council shall have the following powers:

(1) To acquire by purchase, gift, devise, condemnation, or otherwise, property, real or personal, or any estate therein within the town, for any purpose of the town, not inconsistent with the general law, and to hold, improve, sell, lease, mortgage or pledge, or otherwise dispose of the same or any part thereof, including any property now owned by the town.

(2) To acquire by gift, purchase, exchange or by the exercise of power of eminent domain within this state lands or any interest or estate in lands, rock quarries, gravel pits, sandpits, water and water rights and the necessary roadways thereto, either within or without the town, and to acquire and install machinery and equipment and build the necessary roads or trainways thereto and to operate the same for producing material required for any and all purposes of the town.

(3) To acquire and operate parks, playgrounds and public grounds within the corporate limits of the town and to acquire and operate the same without said corporate limits by purchase, gift or devise and to place on the same, either within or without the corporate limits of the town, stadia, swimming pools, recreation and amusement buildings, structures or enclosures of every character and charge admission thereto, and to rent out or lease the privileges of the same.

(4) To acquire by condemnation, purchase or otherwise, provide for, maintain, operate and protect aircraft landing fields either within or without the corporate limits of the town.

(5) To acquire by purchase, gift or devise in any lawful manner, for the purpose of encouraging commerce and manufacture, lands within or without the town, not exceeding at any time five hundred acres in the aggregate, and from time to time sell or lease the same or any part thereof for industrial or commercial use and purposes, irrespective of the consideration paid for such lease or sale.

(6) To construct, purchase, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings, armories, water, gas and electric systems, sewage disposal plants, jails, comfort stations, markets and all buildings and structures

necessary or appropriate for the use and proper operation of various departments of the town and to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for such improvements or any of them and either within or without the town to construct, maintain or aid therein roads and bridges to any property owned by the said town and situated beyond the corporate limits thereof, and to acquire land necessary for the aforesaid uses by condemnation or otherwise.

Article IV. Utilities.

Sec. 1. Powers generally.

The town council shall have the following powers:

(1) To own, operate and maintain electric light and gas works, either within or without the corporate limits of the town and to supply electricity and gas, whether the same be generated or purchased by said town, to its customers and consumers, both within and without the corporate limits of the said town, at such price and upon such terms as it may prescribe, and to that end it may contract for and purchase electricity and gas from the owners thereof upon such terms as it may deem expedient.

(2) To own, operate and maintain water works and to acquire in any lawful manner in any county of the state, such water, lands, property rights and riparian rights as the council of the town may deem necessary for the purposes of providing an adequate water supply to the town and piping and conducting the same; to lay, erect and maintain all necessary mains and sewer lines, either within or without the corporate limits of the town, and to require abutting property owners within such corporate limits of the town to connect therewith for the distribution of water to its customers and consumers within the corporate limits of town and to charge and collect water rents therefore; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations promoting the purity of its water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over the land comprised within the limits of the watershed, tributary to any such water supply wherever such lands may be located in this state; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof, and to carry out the powers herein granted, the town may exercise within the state all powers of eminent domain provided by the laws of this state.

(3) To establish, construct and maintain sanitary sewers, sewer lines and systems, and to require abutting property owners to connect therewith; to establish, construct, maintain and operate sewage disposal plants, and to acquire by condemnation or otherwise within or without the town limits, all land, rights of way, riparian and other rights and easements necessary for said purposes and to charge and assess and collect reasonable fees, rentals, assessments of costs of service for connection with and using the same.

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(4) To charge and collect fees for permits to use public facilities and for public services and privileges; and to have the right and power to charge for any service rendered or convenience furnished to those residing without the corporate limits different from the rates charged for similar services or conveniences to those residing within the corporate limits.

(5) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and make reasonable charges therefore; to acquire and operate reduction or any other plants for utilization and disposal of such material; to contract for or regulate the collection and disposal thereof; and to require the collection and disposal thereof, and to acquire land within or without the town for said purpose.

(6) To establish, impose and enforce the collection of water and sewage rates and rates and charges for public utilities or other services, products or conveniences, operated, rented or furnished by the town and to assess or cause to be assessed, after reasonable notice to the owner or owners, water and sewage rates and charge directly against the owner or owners of the building or against the proper tenant or tenants; and may by ordinance require a deposit of such reasonable amount as it may prescribe before furnishing such service either to owner or tenant.

(7) To grant franchises for public utilities in accordance with the provisions of the Constitution and general laws; provided however, the town shall at any time have the power to construct, own, operate, manage, sell, encumber or otherwise dispose of either within or without the town, any and all public utilities for the town, and to sell the services therefore, if permitted by any existing franchise; provided that such public utilities are primarily for the purpose of serving the town.

Article VII. Streets

Sec. 1. Powers generally.

The town council shall have the following powers:

(1) The town shall have the power to acquire, establish, enter, open, widen, extend, grade, improve, construct, maintain and clear public highways, streets, sidewalks, bottleyards, parkways, alleys, and to alter, vacate or close the same; to establish and maintain parks, golf courses, playgrounds and public grounds and to keep them lighted and in good order; to construct, maintain and operate bridges, viaducts, subways, tunnels, sewers and drains and to regulate the use of all such highways, parks, public grounds and works; to plant and maintain or remove shade trees along the streets, alleys, and highways; to regulate the operation and speed of cars and vehicles within the streets and highways within the town; and to do all other things whatsoever, adapted to make the streets and highways safe, convenient and attractive.

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Art. IX, S 1

(2) To give names to or alter the names of the streets and to designate by number all lots and buildings thereon.

Article VIII. Building Regulations.

Sec. 1. Powers generally.

The town council shall have the following powers:

(1) To regulate the size, height, materials and construction of buildings, fences, walls, retaining walls and other structures hereafter erected in such manner as the public safety and convenience may require; to remove or require to be removed or reconstructed any building, structure or addition thereto which by reason of dilapidation, defect of structure or other causes is dangerous to life or property, or which may be erected contrary to law.

(2) To provide for regular and safe construction of houses in the town for the future and to provide a building code for the town; to provide setback lines on the streets beyond which no building may be constructed if permitted by general law; to require the standard of all dwelling houses to be maintained in residential sections in keeping with the majority of residences therein and if permitted by general law, to require the standard of all business houses to be maintained in business sections in keeping with the majority of the business houses therein.

(3) To make and adopt a comprehensive plan for the town and to that end all plats and replats hereafter made subdividing any land within the town, or within one mile thereof, into streets, alleys, roads and lots or tracts, shall be submitted to and approved by the council before such plats or replats are filed for record or recorded in the office of the Clerk of the Circuit Court of Frederick County, Virginia; provided that control of subdivisions of land without the town shall be subject to general law.

(4) To issue or refuse (in case of noncompliance with the building requirements of the town) to issue, permits for the construction of buildings, fences, walls, and other structures in the said town; and provide for the punishment of any person, firm or corporation failing to secure such permit prior to the beginning of said construction or other work.

Article IX. Additional Powers.

Sec. 1. Nuisances, fire prevention, etc.

In addition to powers elsewhere mentioned in this Charter the town shall have the following powers:

(1) To compel the abatement and removal of all nuisances within the town or upon property owned by the town without its limits at the expense of the person or persons causing the same or

said expense by suit or motion or by distress and sale; to require all lands, lots and other premises within the town to be kept clean and sanitary and free from stagnant water, weeds, filth and unsightly deposits, or to make them so at the expense of the owners or occupants thereof and to collect said expense by suit or motion or by distress and sale; to regulate or prevent noisome or offensive business within the said town, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the towns; to compel the abatement of smoke and dust and prevent unnecessary noise; to regulate the location of stables and the manner in which the same shall be constructed and kept; to regulate the location, construction, operation and maintenance of billboards and signs; and generally to define, prohibit, abate, suppress and prevent all things detrimental to health, morals, aesthetics, safety, convenience and welfare of the inhabitants of the town and to require all owners or occupants of property having public sidewalks adjacent thereto to keep the same clean and sanitary, free from weeds, filth, unsightly deposits, ice and snow and any obstruction.

(2) To extinguish and prevent fires and to establish, regulate and control a municipal fire department or division; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, added to, enlarged or repaired, and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof materials; to enact laws for securing the safety of persons from fire in halls and buildings used for public assemblages, entertainments or amusements.

(3) To direct the location and construction of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerin, fireworks, kerosene, gasoline and other like material; to regulate or prevent

(4) To provide for the preservation of the general health of the inhabitants of said town, make regulations to secure the same, inspect all foodstuffs and prevent the introduction and sale in the town of any articles or things intended for human consumption which is adulterated, impure or otherwise dangerous to health and to condemn, seize and destroy or otherwise dispose of such article or thing without liability to the owner thereof; to prevent the introduction or spread of contagious or infectious diseases and prevent and suppress disease generally; to provide and regulate hospitals within the town limits, and if necessary to the suppression of disease to enforce the removal of persons affected with contagious or infectious diseases to hospitals provided for them; to provide for the organization of a department or bureau of health, to have the powers of a board of health for the town with authority necessary for the prompt and efficient performance of its duties, with the power to invest any or all of the officials or employees of such department of health with such powers as the police officers of the town have, to establish quarantine ground within the town, and establish and enforce such quarantine regulations against contagious and infectious diseases as the council may see fit, subject to the laws of the state and the United States.

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(5) To provide for the care, support and maintenance of children and of sick, aged, insane or poor persons and paupers,

(6) To provide and maintain either within or without the town charitable, recreative, curative, corrective, dententive or penal institutions.

(7) To regulate poultry or other fowl, hogs, dogs or other animals being kept in or running at large in the town, or any thickly populated portion thereof, and to subject the same to such taxes, regulations and penalties as the council may think proper.

(8) To prevent the riding or driving of horses or other animals at an improper speed, to prevent the flying of kites, throwing of stone, the setting off of fireworks or engaging in any sort of employment in the public streets which is dangerous or annoying to passers-by, and to prohibit and punish the abuse of animals.

(9) To establish markets in the town and regulate the same and to enforce such regulations in regard to the keeping and sale of fresh meats, vegetables, eggs and other green groceries and the trade of hucksters and junk dealers as may be deemed advisable.

Sec. 2. Police powers generally.

The town shall have further powers to:

(1) To prevent any person having no visible means of support, paupers and persons who may be dangerous to the peace and safety of the town from coming to town from without the same; and to expel therefrom any such person who has been in the town less than twelve months.

(2) To exercise full police powers and establish and maintain a department of police.

(3) To restrain and punish drunkards, vagrants and street beggars; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill fame and gambling houses and punish operators and inmates of the same; to prohibit and punish the carrying of concealed weapons within the town; to prevent and punish lewd, indecent and disorderly exhibitions in the town; to prohibit and punish gambling and betting, disturbances of the peace, disorderly conduct and public swearing and cursing within the town.

(4) To prohibit persons under 18 years of age from and punish them for frequenting, playing or loitering in the public poolroom, billiard parlor, or bowling alley and to punish any proprietor or agent thereof for permitting same.

(5) To prohibit and punish mischievous, wanton or malicious damage to school, church and public property, as well as to private property.

(6) To compel persons sentenced to confinement in jail for any violation of the laws or ordinances of the town to work on the public streets, parks or other public works of the town; and on the requisition of the mayor, it shall be the duty of the sergeant of the town to deliver such person to the duly authorized agent of the town for such purposes from day to day as they may be required. For the purpose of carrying into effect the police regulations of the town, the town shall have the use of the county jail of Frederick County for the safekeeping and confinement of all persons who shall be sentenced to imprisonment under the ordinances of the town.

(7) To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon the conviction of such violation.

(8) To pass and enforce all by-laws, rules, regulations and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of the citizens and their property and to do such other things and pass such other laws as may be necessary or proper to carry into full effect all powers, authority, capacity or jurisdiction which is or shall be granted to or vested in the town, or in the council, court or officers thereof, or which may be necessarily incident to a municipal corporation.

(9) To do all things whatsoever necessary or expedient and lawful to be done for promoting or maintaining the general welfare, comfort, education, morals, government, peace, health, trade, commerce, or industries of the town or its inhabitants.

(10) To offer and pay rewards for the apprehension of criminals.

(11) To provide by ordinance a system of meat and milk inspection and appoint milk and meat inspectors, agents or officers to carry the same into effect; to prevent, license, regulate, control and locate slaughter houses within the corporate limits of the town, and for such service of inspection to make reasonable charges; and to provide reasonable penalties for the violation of such ordinances.

Sec. 3. Schools, alcoholic beverages, motor vehicles, etc.

The town shall have the further power to:

(1) To establish, organize, administer or contribute to the support of public schools and libraries, subject to the general laws establishing a standard of education for the state.

(2) To inspect, test, measure and weigh any commodity or commodities or articles of consumption for use within the town, and to establish, regulate, license and inspect weights, meters, measure and scales.

(3) To make and enforce ordinances, insofar as are not prohibited by the general laws of this state, to regulate, control, license and/or tax the manufacture, bottling, sale, distribution, transportation, handling, advertising, possession, dispensing, drinking and the use of alcoholic beverages.

(4) To require every owner or operator of motor vehicles residing in the town on a date to be designated by the council to annually register such motor vehicle and to obtain a license to operate the same by making application to the treasurer of the town or such other person as may be designated by the council; to issue such license and to require the owner to pay the annual license fees therefore to be fixed by the council, provided that the license fees shall not exceed the amount charged by the state on such vehicles. Such license plate shall be attached on a conspicuous part of the motor vehicle for which issued and kept thereon in plain view for common observation. The council may prorate such license fee over periods of not less than three months.

(5) Insofar as not prohibited by the general law, to control, regulate, limit and restrict the operation of motor vehicles carrying passengers for hire upon the streets or alleys of the town; to regulate the use of automobiles and other automotive vehicles, upon the streets, to regulate the routes in and through the town to be used by motor vehicle carriers operating in and through the town and to prescribe different routes for different carriers; to prohibit the use of certain streets by motor trucks; and generally to prescribe such regulations respecting motor traffic therein as may be necessary for the general welfare and safety.

(6) To make and enforce ordinances, not inconsistent with the laws of this state.

(7) To put into force and effect by ordinance any and all of its powers and to prescribe punishment for the violation of any town ordinance, rule, or regulation, or any provision of this Charter, the penalty not to exceed five hundred dollars fine or twelve months in jail or both, provided such penalties do not exceed those prescribed by the state for a similar offense.

(8) The town council may exercise all powers which, under the Constitution and laws of the Commonwealth, it would be competent for this Charter specifically to enumerate.

Article X. Actions Against the Town.

Sec. 1. Generally.

No actions shall be maintained against the town for damages for any injury to any person or property, or for wrongful death, alleged to have been sustained by reason of the negligence of the town or any officer, agent or employee thereof unless a written statement of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a result of the alleged negligence of the town, its officers, agents or employees, of the nature of the claim and the time and place at which the injury is alleged to have occurred or to have been

received shall have been filed with the mayor or any attorney appointed by the council for the purpose **Art. X, S 1**
Art. XI, S 3 **Middletown Town Code**

within sixty days after such cause of action shall have occurred, except where the claimant is an infant or not compos mentis or the injured party dies within such sixty days, such statement may be filed within one hundred and twenty days, and no officers, agents or employees of the town shall have authority to waive such conditions precedent or any of them.

Article XI. Miscellaneous.

Sec. 1. Effect of Charter on existing indebtedness, etc.

That nothing contained in this act (Charter) shall be construed to invalidate or to, in any manner, affect the present existing indebtedness and liabilities of the Town of Middletown, whether evidenced by bonded obligations or otherwise.

Sec. 2. Existing ordinances; severability of Charter.

All ordinances in force in the Town of Middletown not inconsistent with this Charter shall be and remain in force until altered, amended or repealed by the council.

If any clause, sentence, paragraph, or part of this act (Charter) shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the act (Charter), but shall be confined in its operation to the part of the act (Charter) directly involved in the controversy in which the judgment shall have been rendered.

Sec. 3. Citation of Charter.

This act (Charter) may for all purposes be referred to or cited as the Town of Middletown Charter of 1954.