1. September 15, 2020 Agenda

   Documents:

   20200915.PDF

1.I. September 15, 2020 Workbook

   Documents:

   09-15-2020 WORKBOOK.PDF
CITY COUNCIL BUSINESS MEETING – 5:30 PM – COUNCIL CHAMBERS – LOWER LEVEL

MOMENT OF MEDITATION/PLEDGE OF ALLEGIANCE TO THE FLAG/ROLL CALL

PRESENTATION- Middletown Youth Coalition

PUBLIC HEARING: Text Amendment Case #1-20: Middletown Development Code: Consideration of text amendments to the Middletown Development Code pertaining to the Chapter 1204: Zoning Districts and Use Regulations, Chapter 1206: Accessory and Temporary Use Regulations, Chapter 1208 General Development Standards, Chapter 1210: Architectural Standards, 1212: Historic Preservation, Chapter 1216: Landscaping and Buffering, Chapter 1218: Parking, Access, and Mobility, Chapter 1220: Signage, Chapter 1226: Review Authority and Procedures, and 1230: Definitions. Planning Commission’s recommendation of approval has been forwarded to City Council for final review and decision.

CITIZEN COMMENTS

COUNCIL COMMENTS

CITY MANAGER REPORTS

CONSENT AGENDA. . . Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote of consent. There will be no separate discussion of these items. If discussion is desired, that item will be removed and considered separately.

(a) Approve City Council minutes from August 4, 2020
(b) Receive and File Board and Commission Minutes from:
   Civil Service Commission- July 16, 2020 and August 6, 2020
   Board of Health- August 11, 2020
(c) Authorize the City Manager to enter into a contract for services with Anthem Life to administer life insurance plans for employees and qualified retirees.
(d) Confirm the promotional appointment of Kayla Carle to the position of Executive Account Clerk in the Department of Finance, Division of Treasury.
(e) Confirm the personnel appointments of Aaron Adkins to the position of Patrol Officer in the Department of Public Safety, Division of Police; and Christopher Arias and Chris Schwitalski to the position of Water Reclamation Operator in the Department of Public Works & Utilities, Division of Water Reclamation.

MOTION AGENDA

(a) Authorize the transfer of 2005 Grand Avenue to the adjacent property owners Seth and Andrea Morris for $100.00.
(b) Authorize the transfer of property to adjacent property owners through the Vacant Side Lot Program.

<table>
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<tr>
<th>PARCEL NO.</th>
<th>ADDRESS</th>
<th>STREET</th>
<th>SALE PRICE</th>
<th>INTERSTED PARTY</th>
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(c) Authorize the City Manager to enter into a contract for services with Anthem Dental to administer the dental care plan for employees.
(d) Appoint a City Council Representative to the Citizens Advisory Board to Police.

LEGISLATION

1. Resolution No. R2020-26, a resolution accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor and declaring an emergency.

2. Ordinance No. O2020-43, an ordinance authorizing the submission of an application for federal assistance, an action plan and a projected use of funds, under Title I of the Housing and Community Development Act of 1974, as amended, and declaring an emergency.


4. Ordinance No. O2020-45, an ordinance authorizing the City Manager to enter into an agreement for a small business economic development grant with Annie Up Boutique. (Second Reading)

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6. Resolution No. R2020-27, a resolution imposing a moratorium of six months on the issuance and processing of any building permits or certificates of occupancy allowing standalone businesses providing massage therapy, relaxation massage services or the like within the City of Middletown and declaring an emergency.

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MIDDLETOWN CITY COUNCIL AGENDA
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PUBLIC HEARING
September 1, 2020

TO: City Council

ATTN: Amy Schenck, Clerk of Council

FROM: Austin Eidemiller, Zoning Inspector
Ashley Combs, Planning Director

SUBJECT: Staff Report for Text Amendment Case #1-20

REQUEST:

STAFF ANALYSIS:
In March 2018 the City of Middletown adopted a new Development Code. The new Development Code was updated so that all of the City’s zoning regulations were strengthened and the zoning districts were renamed to reflect modern zoning practices. It is important that Planning Staff routinely reviews the Middletown Development Code to ensure consistency with the Master Plan and adaptive land uses. Below are the proposed text amendments that reflect modern zoning practices as well as protect the City’s resources and aesthetics.

The proposed text amendments have been reviewed by the City’s outside Legal Counsel as well as the State Historic Preservation Office for compliance with the City’s Certified Local Government historic preservation status.

Below are the staff analysis for each text amendment request to the Middletown Development Code. New proposed text is identified in **highlighted yellow text**. Text that is proposed for removal is identified by **struck through** text. Attached are the full pages from the Middletown Development Code.
MIDDLETOWN DEVELOPMENT CODE TABLE 1204-3: PRINCIPALLY PERMITTED USES: MICROBREWERY, MICRODISTILLERY, OR MICROWINERY

Request: Staff requests the use of “Microbrewery, Microdistillery, or Microwinery” be added to Table 1204-3 Principally Permitted Uses. Please see below Use-Specific Standards 1204.09 (d)(6).

Staff Analysis:
By adding the use type of “Microbrewery, Microdistillery, or Microwinery”, the City will be able to address brewery type of uses more effectively. The current Middletown Development Code limits some breweries as manufacturing and production (indoors) uses and does not incorporate modern brewery type of uses. Microbrewery, Microdistillery, or Microwinery are common use types in surrounding community zoning codes. Below are the proposed text amendments for Table 1204-3: Principally Permitted Uses Table pertaining to Microbreweries, Microdistilleries, and Microwineries.

Middletown Development Code Table 1204-3: Principally Permitted Uses

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<th>R8</th>
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**Use-Specific Standards**

1204.09 (d)(6) Microbrewery, Microdistillery, or Microwinery

A. A microbrewery, microdistillery, and microwinery shall be allowed in the B-1, B-2, B-3, BC, and UC Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on site so that the use fits into the retail character of the districts.

B. A microbrewery, microdistillery, and microwinery in the I Districts may include a taproom area to serve customers drinks made on site provided the floor area of the taproom does not exceed 25 percent of the total footprint of the structure.
MIDDLETOWN DEVELOPMENT CODE TABLE 1204-3: PRINCIPALLY PERMITTED USES: AUTOMOTIVE REPAIR HEAVY & AUTOMOTIVE SALES & LEASING

Request: Staff requests that the use of Automotive Repair (Heavy) be changed from Conditional in the B-2 zoning district and Permitted in the B-3 zoning district to prohibit in the B-2 and B-3 zoning districts Table 1204-3: Principally Permitted Uses.

Staff Analysis: Automotive Repair (Heavy) and Towing Services is defined as “Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of major parts of motor vehicles (e.g., major engine repair). This use type may also include towing services that provide towing or conveyance of a wrecked, inoperable, disabled, or illegally parked motor vehicle.” Automotive Repair (Heavy) and Towing Services uses are intense in use and often extend beyond the property line in scale. Automotive Repair (Heavy) and Towing Services is commonly found in industrial only use categories in neighboring community zoning codes.

Request: Staff requests that the use of Automotive sales and leasing be changed from principally permitted in the B-2 and B-3 zoning district to Permitted with Standards or “PS” in the B-2 zoning district and Conditional in the B-3 zoning district in Table 1204-3: Principally Permitted Uses. Please see below Use-Specific standards (1204.09 (d) (19) Automotive Sales and Leasing

Staff Analysis: Automotive Sales and Leasing Uses are commonly found in Highway Business zoning districts. The City of Middletown does not have a “Highway Business District” rather the B-2 Community Business District. The purpose of the B-2 Community Business District is to provide for areas of the City that will contain a wide variety of commercial and office uses to meet the needs of the City and region that require access to major arterial streets and are in close proximity to major residential neighborhoods. When automotive sales and leasing uses are to be reviewed as a conditional use, the Planning Commission will use the following review criteria: (d) Review Criteria

Decisions on a conditional use application shall be based on consideration of the following review criteria. All conditional uses shall be subject to review under the criteria of this section, as applicable, and may be subject to additional use-specific standards.

(1) The proposed conditional use is established as an allowed conditional use in the applicable zoning district;
(2) The proposed use is consistent with the spirit, purpose and intent of the master plan and the general purpose of this code;
(3) The proposed use complies with any use-specific standards as may be established for the use;
(4) Any building or structure constructed, reconstructed, or altered as part of a conditional use in a residential zoning district shall, to the maximum extent feasible, maintain the exterior appearance of residential buildings of the type otherwise permitted and shall have suitable landscaping, screening, and fencing wherever deemed necessary by the Planning Commission;
(5) The proposed use will comply with all applicable development standards, except as specifically altered by the Planning Commission in the approved conditional use;
(6) The proposed use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;
(7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
(8) The circulation on and access to the property shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
(9) The design of the buildings, structures, and site will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance;
(10) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and
(11) Wherever no specific areas, frontage, height, or setback requirements are specified in provision for a specific conditional uses, then such use shall be subject to the site development standards for the applicable zoning district.

Under Middletown Development Code 1224.05 Nonconforming Uses (f) Existing Use Reclassified as a Conditional Use In the event an existing use that was permitted by right at the time the use was established is thereafter reclassified as a conditional use in the applicable district due to a zoning text amendment, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval by the Planning Commission in accordance with this chapter and Section 1226.05. Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.

Below are the proposed text amendments to the Principally Permitted Uses table pertaining to Automotive Sales and Leasing.

<table>
<thead>
<tr>
<th>TABLE 1204-3: PRINCIPALLY PERMITTED USES</th>
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<tbody>
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<td><strong>Use Category</strong></td>
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Use-Specific Standards

1204.09 (d) (19) Automotive Sales and Leasing
A. Automotive Sales and Leasing must be located on lots no smaller than four acres in size, with a minimum lot frontage of 200 feet. If the lot is smaller than these requirements, the use shall require approval of a conditional use application.
B. All outdoor display, storage, and sales facilities must be screened pursuant to Section 1216.06.
C. The use shall be located on an arterial street as designated on the Official Thoroughfare Plan.
D. No outdoor loudspeakers shall be permitted between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.
E. The use shall meet all State of Ohio requirements. The dealer’s license must be on display.
F.
G. Automotive Sales and Leasing must be located on a lot with a permanent principal structure.

MIDDLETOWN DEVELOPMENT CODE TABLE 1204-3: PRINCIPALLY PERMITTED USES: SELF STORAGE FACILITIES

Request:
Staff requests the use of Self-Storage Facilities are changed to prohibited in the B-3 Zoning District and I-2 Zoning District in Table 1204-3: Principally Permitted Uses.

Staff Analysis:
Self-Storage Facilities are defined as “A structure containing separate, individual and private storage spaces of varying sizes which are leased or rented on individual leases for varying periods of time and whose tenants have access to such space for the purpose of storing and removing personal property”. The purpose of the B-3 General Business District is to provide for intense commercial and office development in close proximity to the interstate and high-volume streets that can provide needed goods and services to residents of the City, region, and beyond. Such district is most appropriately located adjacent to freeway interchanges and along major streets. The purpose of the I-2 General Industrial District is to accommodate a broad range of industrial activities, diverse in products, operational techniques, and size which have a greater potential impact upon their environment and surrounding neighborhoods than those permitted in the I-1 District.

It is important that the City preserves its industrial zoned properties from low impact developments. Prohibiting self-storage facilities in the I-2 Industrial Zoning District is intended to protect the City’s most intensive industrial land for developments that are more job-intensive, economically beneficial for the City, and industrial uses that are potentially supportive of other industrial uses.
### TABLE 1204-3: PRINCIPALLY PERMITTED USES

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<thead>
<tr>
<th>Use Category</th>
<th>Use Type</th>
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**PUBLIC AND INSTITUTIONAL USES**

| Use Type                      |                    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(15)              |
|-------------------------------|-------------------|----|-------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----------------------------|
| Active Recreational Facilities|                    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(16)              |
| Airport                       |                    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(17)              |
| Essential Services            |                    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(18)              |
| Government Facilities         |                    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(19)              |
| Passive Park, Open Space, and | Natural Areas      | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(20)              |
| Radio and Television          | Broadcasting       | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(21)              |
| Radio and Television          | Broadcasting Studio| XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(22)              |
| Utility Facilities and        | Buildings          | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(23)              |
| Utility Structures            |                    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(24)              |
| Wireless Telecommunication    | Facilities         | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(25)              |
| Wireless Telecommunication    | Facilities (Antenna| XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(26)              |
| Wireless Telecommunication    | Facilities (New    | XX | XX    | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | XX | 1204.90(a)(27)              |

**CHAPTER 1206: ACCESSORY AND TEMPORARY USE REGULATIONS & SIZE REQUIREMENTS**

1. **Request:** Staff Requests that the minimum footprint for exemptions of accessory structures changed from 200 square feet to 40 square feet in code section 1206.01 (b) 5.

   **Staff Analysis:** The current 200 square feet exemption in the Middletown Development Code is contradictory for detached storage structures. By changing this to 40 square feet, the Middletown Development Code will be more in line with the permit requirements for detached accessory structures while providing small structures like dog houses and playsets exempt from the provisions of the code.

2. **Request:** Staff Requests that accessory buildings over 200 square feet must have the same exterior finish material on a minimum of 50% of all sides as the primary exterior material and approximate color in code section 1206.01 (b) 9.

   **Staff Analysis:** The current Middletown Development Code allows for any building material for an accessory structure. By adding the above provision, this allows for accessory structures to fit in with the character of the neighborhood as well as the intent behind the Architectural Standards for residential zoning districts. Below are the proposed text amendments to Chapter 1206: Accessory and Temporary Use Regulations.
Chapter 1206: Accessory and Temporary Use Regulations

1206.01 Accessory Uses and Structures (b) General Provisions

1. An accessory use or structure shall be incidental to the primary use of the site, and shall not alter the character of the principal use.

2. Accessory uses and structures shall be constructed on the same lot as the principal use that it serves.

3. Any accessory use or structure that does not require a certificate of zoning compliance as part of this chapter shall still be subject to all standards of this chapter.

4. No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the principal structure.

5. Small accessory structures such as doghouses, benches, garden decorations, barbeque equipment, etc. shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 200 square feet. Such structures shall be set back a minimum of three feet from all lot lines and shall be subject to the maximum height standards of this section.

6. Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard without a permit.

7. An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards of the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building either by common walls or by a breezeway or roof.

8. The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Butler County, Warren County, or the State of Ohio.

9. Accessory buildings over 200 square feet in area must have the same exterior finish material on a minimum of 50% of all sides as the primary exterior material and approximate color as the front of the existing primary building. When the above provisions shall not be met, the materials shall be reviewed by the Architectural Review Board pursuant to section 1226.01 of the Middletown Development Code.

1206.01 (11) Size Requirements

A. For residential districts, the aggregate square footage of the following accessory buildings and structures shall not exceed more than 25 percent of the total rear yard:

i. Detached garages and carports;

ii. Detached Storage/utility sheds, gazebos, and other similar structures;

iii. Porches and decks;

iv. Ground-mounted solar energy systems

v. Swimming pools;

vi. Tennis and other recreational courts; and

vii. Other accessory buildings similar in nature to the above-mentioned structures, as determined by the Development Code Administrator.
CHAPTER 1208: GENERAL DEVELOPMENT STANDARDS: FENCES, WALLS, AND HEDGES

Request: Staff requests to add Development Code 1208.06 (a)(3.) No person shall construct or erect a fence or wall on a vacant lot unless established as a temporary construction fence to Chapter 1208: General Development Standards.

Staff Analysis: Development Code 1208.06(a)(3) promotes infill development, lot consolidations, land management, and prevents nuisance issues. Below are the proposed text amendments to Chapter 1208: General Development Standards.

Chapter 1208: General Development Standards
1208.06 Fences, Walls, and Hedges (a) Permit Required
1. No person shall construct or erect a fence or wall without first obtaining an approved certificate of zoning compliance and/or a building permit, if applicable. Permits are not required for repairs of existing fences, for replacement of a fence for which the original permit can be produced, or for invisible fences.
2. A certificate of zoning compliance shall not be required for vegetative hedges or invisible fences but they shall be subject to any applicable requirements of this section.
3. No person shall construct or erect a fence or wall on a vacant lot unless established as a temporary construction fence.

CHAPTER 1210 ARCHITECTURAL STANDARDS: BUILDING MATERIALS

Request: Staff requests that "that face a public street" and "vinyl" siding be removed from Development Code 1210.04(b)(3)

Staff Analysis: In order to protect the Historical Character of the downtown, it is important that all of the Middletown Development Code be consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties. In 2019, staff received several complaints regarding vinyl siding being installed. The property was located in the historic district. The vinyl siding request was denied, referencing Secretary of Interior Standards and historic character of the UC district. The Historic Commission made a motion to initiate a text amendment for the removal of vinyl siding from the UC District. Below are the proposed text amendments to Chapter 1210: Architectural Standards.

Chapter 1210 Architectural Standards
1210.04(b)(3) Building Materials
A. All building facades that face a public street, except those in the UC District, shall be constructed of the following materials:
   i. Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).
   ii. Architectural metal is permitted, provided that it occupies no more than 10 percent of the façade area and that all fasteners are concealed.
   iii. This subsection shall not be construed to prohibit metal roofs, flashing, or high-quality metal siding such as copper, bronze, or
other decorative metal as determined by the Development Code Administrator.

B. All building façades that face a public street in the UC District (all subdistricts) shall be constructed of the following materials:
   i. Brick, stone, painted lap cement fiberboard, stucco, or exterior insulation finish systems (E.I.F.S.) shall be the primary materials on each façade.
   ii. Natural wood clapboard, wood board and batten, wood shingles, vinyl, aluminum, or steel siding may be permitted as secondary materials as permitted by fire code ratings. For the purposes of this standard, secondary shall mean less than 50 percent.
   iii. Visible roofing materials to be used are dimensional asphalt, slate, tile, or standing seam.

CHAPTER 12.16: LANDSCAPING AND BUFFERING

Request: Staff requests that the Middletown Development Code be updated to refer to the City’s Public Works Department’s Comprehensive Plant Species List and that submitted landscaping plans be reviewed by the City’s Natural Resource Coordinator when applicable.

Staff Analysis: The City’s Parks Commission recently adopted the Comprehensive Plant Species List. It is important that City Departments work together to ensure other rules and regulations are being followed. Below are the proposed additions.

12.16.04(d) Planting Standards
All plants utilized in the fulfillment of the requirements of this section shall meet the following requirements:
1. Plants installed shall meet the standards for size, form, and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition); and
2. All planting materials shall follow the City of Middletown Comprehensive Plant Species list.
3. Trees shall be balled and burlapped or in containers. Shrubs, vines, and ground covers can be planted as bare root as well as balled and burlapped or from containers.
4. Plant materials should consist of hardy, native and/or drought-tolerant vegetation to the maximum extent feasible.
5. Plant materials should consist of hardy, native and/or drought-tolerant vegetation to the maximum extent feasible.
6. All trees selected to be protected shall be protected according to ANSI A300 standards.
7. Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the City.
8. Vegetation shall comply with the minimum size requirements established in Table 12.16.1.
9. Vegetation shall be subject to review by the Natural Resource Coordinator when applicable.
CHAPTER 1220 SIGNAGE: PROHIBITED & TEMPORARY SIGNAGE

**Request:** Staff requests that the following temporary signs are removed from Chapter 1220 Signage: Blade Signs and Balloon or Air Activated signs.

**Analysis:** The current code states that “Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention” under Middletown Development Code 1220.11(n)(4). The current code contradicts the balloon and air activated signs because both sign types use motion to attract attention.

Below are the proposed text amendments to Chapter 1220 Signage. Attached is a sample public notice to advertise the change in the types of permitted signage.

**Chapter 1220 Signage:**

1220.03 (n) Prohibited Signs
The following types of signs are specifically prohibited within the City:

1. Vehicle signs viewed from a public road with the primary purpose of providing signage not otherwise allowed by this code. Vehicle signs include those attached to or placed on a vehicle or trailer. Vehicles or trailers shall not be parked continuously in one location to be used primarily as additional signage. This does not apply to a vehicle parked at a driver’s residence and is the primary means of transportation to and from his or her place of employment.

2. Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;

3. Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign.

4. Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention;

5. Beacons and searchlights, except for emergency purposes; and

6. Signs mounted above the roofline of a building;

7. Deteriorated Signs that are unsafe and or insecure;

8. Abandoned Signs;

9. Windblown devices, not including projecting signs,

10. Blade Signs;

11. Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;

12. Balloon signs or air activated signs; and

13. Any sign not specifically allowed by this chapter.
TABLE 1220-3: TEMPORARY SIGN ALLOWANCES

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>Districts and Subdistricts Allowed</th>
<th>Maximum Sign Area (Square Feet)</th>
<th>Maximum Sign Height (Feet)</th>
<th>Time Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-Frame or T-Frame Sidewalk Signs</td>
<td>All Districts and Subdistricts</td>
<td>8</td>
<td>4</td>
<td>See Section 1220.09(d)(1).</td>
</tr>
<tr>
<td>Balloon or Air-Activated Graphics</td>
<td>All Districts and Subdistricts except LG-C and UC-S</td>
<td>50</td>
<td>12</td>
<td>14 consecutive days, one time per calendar year</td>
</tr>
<tr>
<td>Banner Signs</td>
<td>All Districts and Subdistricts</td>
<td></td>
<td></td>
<td>See Section 1220.09(d)(3).</td>
</tr>
<tr>
<td>Blade Signs</td>
<td>All Districts and Subdistricts except LG-C and UC-S</td>
<td>24</td>
<td>8</td>
<td>14 consecutive days, four times per calendar year</td>
</tr>
<tr>
<td>Flag Banner Signs</td>
<td>All Districts and Subdistricts</td>
<td>20</td>
<td>None</td>
<td>14 consecutive days, four times per calendar year</td>
</tr>
<tr>
<td>Yard Signs</td>
<td>All Districts and Subdistricts</td>
<td>24</td>
<td>5</td>
<td>14 consecutive days, four times per calendar year</td>
</tr>
</tbody>
</table>

(d) Standards for Temporary Sign Types

(1) A-Frame or T-Frame Sidewalk Signs

A-Frame or T-Frame sidewalk signs are permitted in any nonresidential district in accordance with the following requirements;

A. A certificate of zoning compliance shall be required for the initial placement of a sign. If a sign with an approved certificate of zoning compliance is replaced by a sign identical in size and location, a new certificate of zoning compliance shall not be required for the replacement sign.

B. The sign may be located on a public or private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas.

C. If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven feet wide.

D. The sign must be free-standing and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.

E. The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.

F. The sign shall be internally weighted so that it is stable and windproof.

G. The sign shall only be placed outside during the hours of the establishment’s operation.
H. The City of Middletown shall be held harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign.

(2) **Balloon or Air-Activated Signs**

A. Only one balloon or air-activated sign is allowed on any lot at one time.

B. The sign shall be securely anchored to the ground.

C. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height. Such setback shall include any wires, rope, or other materials used to securely fasten the sign to the ground.

(3) **Banner Signs**

A. Banner signs may be attached to a building, fence, or other similar structure. Banners attached to posts and mounted in a yard or landscape area shall be regulated as a temporary yard sign.

B. The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

C. The maximum sign area for banner signs shall be 24 square feet.

D. Banner signs shall be permitted for up to 15 consecutive days, four times per calendar year with the exception of paragraph (E) below.

E. For certificates of zoning compliance applications related to the establishment of anew use within an existing building where there is existing permanent signage, a banner sign may be approved for up to 45 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign and shall require a certificate of zoning compliance.

(4) **Blade Signs**

A. There shall be a minimum separation distance of 50 feet as measured along the street frontage.

B. The signs shall be securely anchored in the ground or within a portable base designed for such function.

C. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height.

(5) **Flag Banner Signs**

A. Flag banner signs shall be mounted on the building wall either by bracket or by a pole.

B. The bottom of the flag banner sign shall be no lower than nine feet measured from grade of the property line closest to the banner.
C. Flag banner signs shall not extend beyond three feet over the sidewalk measured from their point of mounting on the storefront wall.

D. Flag banner sign mounting devices shall have structural integrity as authorized by the Chief Building Official.

HISTORIC PRESERVATION: CONSERVATION DISTRICTS

REQUEST: The addition of language to the Historic Preservation chapter to include the Secretary of Interior's Guidelines for the treatment of historic properties and for the addition of a new type of "light" Historic District category to be known as Conservation Districts added to all chapters of the Middletown Development Code that refer to the City's Historic Districts.

STAFF ANALYSIS:

DESIGN GUIDELINES: Historic protection guidelines are intended to help property owners, architects, and contractors who are considering work within a locally designated district or area, including changes to existing buildings, demolition, or new construction. The guidelines are not rigid sets of rules but serve as a guide in making improvements which are compatible with the district's or area's character. Staff will encourage COA applicants to refer to the Secretary of Interior Guidelines and Standards Bulletins as a more detailed guide and for examples of appropriate additions and alterations to historic buildings.

CONSERVATION DISTRICTS: Adding language into the Middletown Development Code for "light" Historic Districts also known as Conservation Districts. The Oakland neighborhood has been marketed as a "light" historic district and it's important to have language in place in the Middletown Development Code. The City's Conservation Districts will focus on certain elements to maintain the character of a neighborhood. The Conservation District designation will allow the City's Historic Property Specialist to review proposed alterations administratively and only "major" alterations such as new construction and demolitions to be reviewed by the City Historic Commission. The City's Historic District is significant at the neighborhood level and is regulated with more flexible historic resource protections than the City of Middletown's other historic districts. The Historic Property Specialist will also have the right to forward exterior alterations to the Commission if they feel they do not meet the intent of preserving the character of the neighborhood. Per the Middletown Development Code, the review process for exterior alteration reviews in a Historic District can take up to 45 days depending on the scheduling of a regular or special meeting.

Staff also proposes to identify Historic Districts and Conservation Districts as a zoning overlay. This will take the Historic Districts one step further and they will be attached to the actual zoning of a property. For example properties in the South Main Historic District are zoned "R-3". If the overlay is implemented the new zoning would be "R3-HD1". This would add an extra layer of protection to let property owners, real estate professionals, etc. know that a property is located within a City historic district. Below are the proposed text amendments.
### 1204.01 Establishment of Zoning Districts

<table>
<thead>
<tr>
<th>District Abbreviation</th>
<th>District Name</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential Districts</strong></td>
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</tr>
<tr>
<td>R-1</td>
<td>Suburban Residential District</td>
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<td>Attached Residential District</td>
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<td><strong>Nonresidential Districts</strong></td>
<td></td>
</tr>
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<td>O-1</td>
<td>Office District</td>
</tr>
<tr>
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<td>Hillside Overlay District</td>
</tr>
<tr>
<td>HD</td>
<td>Historic District</td>
</tr>
<tr>
<td>CD</td>
<td>Conservation District</td>
</tr>
</tbody>
</table>

### 1204.07 Zoning District Regulations

(b) District Purpose Statements

HD & CD: Historic District & Historic Conservation District Overlays
Purpose:
- To maintain the historic fabric of the city;
- To stabilize and increase property values;
- To preserve and protect the character or valued features of established districts;
- To maintain and enhance the distinctive character of historic buildings and areas;
- To safeguard the heritage of the city by preserving districts and landmarks which reflect elements of its history, architecture, archaeology, engineering or culture;
- To protect and enhance the city's attractions to current and prospective residents, businesses and tourists;
- To facilitate reinvestment in and revitalization of certain districts and neighborhoods;
- To facilitate and encourage economic development, public and private investment, and tourism in the city;
- To reduce conflicts between new construction and existing development in established districts; and
- To allow districts to work together with the City to formulate a plan that defines their neighborhood that is consistent with City zoning and the Master Plan.

1204.05 Historic Districts and Historic Landmarks

ORIGINAL LANGUAGE:

Some lots within the City may be designated as historic landmarks or located in historic districts. Such lots and/or districts are not identified on the zoning map as a zoning district but the lots, and any changes to the buildings, structures, or site, may be subject to a certificate of appropriateness review as identified in Section 1226.08. For additional information, see Chapter 1212: Historic Preservation.

There are properties within the City designated as historic landmarks or located in historic overall districts. Historic Districts in the City are identified on the City Zoning Map as an Overlay District. Any alterations to the buildings, structures, or site for properties designated as a Historic Landmark or located in one of the City's Historic Districts or Historic Conservation District Overlays may be subject to a certificate of appropriateness review as identified in Section 1226.08. For additional information, see Chapter 1212: Historic Preservation.

Chapter 1212: Historic Preservation

1212.01 Purpose

City Council hereby declares as a matter of public policy that the protection, enhancement, and perpetuation of Landmarks, Historic Districts, and Conservation Districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City of Middletown has many significant historic, architectural, and cultural resources which reflects its heritage, this act is intended to:
(a) Protect and enhance the Historic Landmarks, Historic Districts, and Conservation Districts which represent distinctive elements of Middletown's historic, architectural, and cultural heritage;
(b) Foster civic pride in the accomplishments of the community in the past;
(c) Stabilize and improve property values of designated landmarks, neighborhoods, and districts;
(d) Protect and enhance Middletown’s attractiveness to visitors, tourism, and the support and stimulus to the economy thereby provided;
(e) Insure the harmonious, orderly, and efficient growth and development of Middletown affording the widest possible scope of continuing vitality through private renewal and architectural creativity, within appropriate controls and standards. It is intended to foster a climate in which the City’s historic areas may continue to exist as living, changing commercial and residential areas, not static museums;
(f) Encouraging development of vacant and incompatibly developed properties in accordance with the character of the area;
(g) Providing preservation information and advice to property owners and the general public;
(h) Maintaining and enhancing the distinctive character of historic buildings and areas;
(i) Safeguarding the heritage of the City by preserving districts which reflect elements of its history, architecture, archaeology, engineering or culture; and
(j) Provide a review process for the continued preservation and protection of Middletown’s historic resources.

Chapter 1212: Historic Preservation

1212.02: Designation of A Historic Landmark, Historic District, Or Conservation District

A) Proposals to designate or expand historic districts, conservation districts or designate historic landmarks may be initiated by the Historic Commission, a property owner or by motion of Planning Commission or City Council. Proposals initiated by property owners, Planning Commission or Council shall be referred to the Historic Commission for recommendation and initiation of the formal designation process.

B) Proposals to designate or expand a historic district or conservation district shall be submitted with a rezoning application as well as the information listed below. Proposals to designate a historic landmark shall include, at a minimum, the following additional information:
   a. Evidence of property owner interest in landmark designation or location within the proposed historic district or conservation district.
   b. A boundary description.
   c. An inventory of historic resources.
   d. A description of the architectural and historical significance of properties within the proposed boundaries, including photo documentation of unique elements and also those that are stereotypical of the architectural style.
   e. A map or description of existing zoning.

In considering any area, place, structure, work of art or similar object in the City as a historic site, historic district, or conservation district, the Historic Commission shall apply the following criteria:

1) The structure or site or area’s character, value, or significance as part of the development of the City, the State, or the United States;
2) Its location as a site or area of a significant historic event;
3) Its identification with a person who significantly contributed to the development of the City;
4) Its embodiment of distinguishing characteristics of an architectural style or type;
5) Its exemplification of the cultural, economic, social or political heritage of the City;
6) Its relationship to other distinctive areas or structures designated for preservation;
7) Its unique location or singular physical characteristic representing an established and familiar feature of the City; and
8) Its inclusion of prehistoric and/or historic archaeological sites or other important representations of previous cultures.

b) Designation Procedure
The previously named entities, individuals, or Historic Commission shall have the authority to propose designations of any area, place, structure, work of art, or similar object in the City as a historic site or historic district or conservation district. The following shall be the procedure for the formal designation of such places or areas.

Step 1 – Development Code Administrator Recommendation Required
a. The Historic Commission shall advise the Development Code Administrator of the proposed designation and secure from the Development Code Administrator a recommendation with respect to the relationship of the proposed designation to the Master Plan of the City and any applicable Historic Preservation Plan.

b. The Development Code Administrator shall give an opinion as to the effect of the proposed designation upon the surrounding neighborhood and an opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with a recommendation of approval, rejection, or modification of the proposed designation.

c. Such recommendation shall be submitted in written form by the Historic Commission, along with its recommendation concerning the proposed designation.

d. The Historic Commission shall make a decision whether to proceed with the designation review based on the recommendation of the Development Code Administrator.

Step 2 – Notification
A. If the Historic Commission decides to proceed with designation, the Development Code Administrator shall notify the owner of all properties under consideration for designation. For the purpose of designation or expansion of a group or district, notice shall be published on the City’s webpage and shall be mailed or otherwise distributed to each owner of real property located within such group or district. Whenever possible, the Historic Commission shall secure
the owner's written consent for submittal of the proposed designation, together with its recommendation of findings of fact.

B. The Historic Commission shall make a recommendation concerning the designation of the property to the City Council. Once the proposal to establish or expand a preservation district or to designate an individual property or structure as a historic landmark has been reviewed, the Historic Commission shall schedule a public hearing. The public hearing shall not be more than thirty (30) calendar days after such a proposal is submitted. Notice of the public hearing shall be given according to the following:

   a. The Historic Commission shall give the owner(s) not less than fourteen (14) calendar days' written notice of the date, time and place of such hearing.
   b. Notice of the public hearing shall be given to at least one (1) or more newspapers of general circulation in the City. The notice shall be published at least ten (10) calendar days before the date of the hearing.
   c. Notices shall include the time and place of the public hearing, a summary of the proposal and a statement that opportunity to be heard will be afforded to any person interested. Failure of delivery of such notice shall not invalidate any such amendment.
   d. The original application, all comments and additional considerations presented at the public hearing, and the recommendation of the Historic Commission shall be forwarded to the City Council for its consideration.

Step 3 - Historic Commission Public Hearing

A. The Historic Commission shall conduct the public hearing as provided and shall provide an opportunity for all interested parties to express their opinions.

B. The Historic Commission shall determine if any or all of the criteria listed in Section 1212.02 have been met.

C. The Commission shall then make a recommendation regarding the proposed designation, in writing, within 30 days after the initial hearing date and shall notify the owner or any person having a legal interest in such property, as well as other interested parties who request a copy.

D. The Historic Commission shall state in its recommendation findings of fact that constitute the basis for its decision and shall transmit such recommendation concerning the proposed designation to the Middletown City Council.

Step 4 - Consideration by City Council

A. The City Council shall give due consideration to the findings and recommendations of the Historic Commission, input provided by the persons participating in the public hearing before the Historic Commission, in addition to the recommendation of the Development Code Administrator, in making its determination with respect to the proposed designation of any areas, places, structures, works of art or similar objects as historic sites or historic districts.

B. The City Council may, at its discretion, hold public hearings on any such proposed designation, whether such designation is proposed with the consent of the owner or after public hearings before the Historic Commission. The City
Council may then designate by ordinance areas, places, structures, works of art, or similar objects as historic sites or historic districts.

**Step 5 – Notification of Designation**
Within 14 days, the Historic Commission shall notify the Chief Building Official of the official designation. The Commission shall also send, by certified mail, a certified copy of the designation ordinance to the owner and any person having a legal interest in any properties involved in the designation.

**Step 6 – Record of Designation**
The Historic Commission shall direct the Law Director to cause a record of such designation to be filed with the applicable county recorder.

**Chapter 1226: Review Authority and Procedures:**

**1226.08 Certificate of Appropriateness (COA)**

(a) **Purpose**
The purpose of the certificate of appropriateness (COA) is to provide a procedure by which to review construction, renovation, expansion, and demolition projects on structures located in the Highlands Historic District and the South Main Historic District, Main Street Commercial District, Central Avenue Commercial District, **Oakland Conservation District**, or a structure that is designated by the City Historic Commission or National Register. In an effort to preserve the character of this area, the City has established reasonable development standards and design guidelines for buildings and structures within the district and this procedure allows for a comprehensive review of the activities against the adopted standards and guidelines.

The Development Code Administrator will review Certificate of Appropriateness applications based on the review criteria outlined in this code as well as the Secretary of the Interior Standards for the Treatment of Historic Properties and the Rehabilitation Bulletin. Applicants are encouraged to use the Secretary of the Interior Standards for the Treatment of Historic Properties and the Rehabilitation Bulletin as a reference for preservation projects.

**Conservation Districts: (B) Applicability**

No person owning, renting, or occupying property that is located within a designated Conservation District shall carry out any major exterior alteration such as an addition, new construction, or demolition of a structure that is visible from the public right-of-way without first obtaining a Certificate of Appropriateness from the City Historic Commission or Development Code Administrator, as applicable. No permits for zoning, building or demolition shall be issued without first obtaining a required certificate of appropriateness.

The Development Code Administrator has the authority to review and forward any exterior alterations to the City Historic Commission that they feel do not preserve/enhance the neighborhood Conservation District.
CHAPTER 1230: DEFINITIONS

Conservation District (CD) - Any area designated by ordinance of the City to preserve a defined district’s character, architecture styles, densities, massing, and similar features.

Microbrewery, Microdistillery or Microwinery - An establishment with a primarily use as a bar or tavern where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises in a limited quantity subordinate to the primary table service restaurant use. The gross floor area utilized in a microbrewery, microdistillery or microwinery for the production of beer, liquor, wine, or other alcoholic beverage shall be no greater than the gross floor area utilized for the associated bar or tavern. A microbrewery, microdistillery or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law. A tasting room or taproom may exist in a microbrewery, microdistillery or microwinery where patrons may sample the manufacturer’s products.

PLANNING COMMISSION RECOMMENDATION:

The proposed text amendments were recommended for approval by majority vote of the Planning Commission to City Council on July 10, 2020.

CITY COUNCIL REVIEW AND DECISION:

A. Following receipt of the recommendation from the Planning Commission, City Council shall set a time for a public hearing on the proposed amendment.
B. Notification of the public hearing shall be provided in accordance with Section 1226.02(i).
C. City Council shall review a text or zoning map amendment application during a public hearing. In reviewing the application, City Council shall at a minimum, consider the staff report from the Development Code Administrator, recommendation from Planning Commission, and the review criteria of this section.
Middletown Development Code 204
D. City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission. City Council shall not alter or make a decision that varies from the Planning Commission without a majority vote of City Council.
E. The effective date of any amendment shall be 30 days following final action by City Council unless subject to a referendum in accordance with the Ohio Revised Code.

REVIEW CRITERIA:
Recommendations and decisions on code text or map amendment applications shall be based on consideration of the following review criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.
(1) The proposed amendment is consistent with the master plan, other adopted City plans, and the stated purposes of this code;
(2) The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
(3) The proposed amendment will promote the public health, safety, and general welfare;
(4) The proposed amendment, if amending the zoning map, is consistent with the stated purpose of the proposed zoning district;
(5) The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated; and/or
(6) The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject lot.

ALTERNATIVES:
City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission. City Council shall not alter or make a decision that varies from the Planning Commission without a majority vote of City Council.

FINANCIAL IMPACT:
None

EMERGENCY/NON-EMERGENCY:
Non-Emergency
Chapter 1204: Zoning Districts and Use Regulations

1204.01  ESTABLISHMENT OF ZONING DISTRICTS

The City hereby establishes the following zoning districts to carry out the purpose of this code.

<table>
<thead>
<tr>
<th>DISTRICT ABBREVIATION</th>
<th>DISTRICT NAME</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESIDENTIAL DISTRICTS</strong></td>
<td></td>
</tr>
<tr>
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<td>Low-Density Residential District</td>
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<td><strong>NONRESIDENTIAL DISTRICTS</strong></td>
<td></td>
</tr>
<tr>
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<tr>
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<tr>
<td>HD</td>
<td>Historic District</td>
</tr>
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<td>CD</td>
<td>Conservation District</td>
</tr>
</tbody>
</table>
Boundaries indicated as approximately following platted or deeded lot lines shall be construed as following such lot lines.

Boundaries indicated as approximately following the municipal boundaries for the City of Middletown shall be construed as following such City limits.

Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

Boundaries indicated as following low-water mark of rivers or streams shall be construed to follow such low-water marks, and in the event of change in the low-water mark shall be construed as moving with the actual low-water mark; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.

Boundaries indicated as parallel to or extensions of features indicated in subdivisions (1) through (5) above shall be so construed.

Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered by subdivisions (1) through (6) above, the Development Code Administrator shall interpret the district boundaries, appealable to the BZA.

**1204.05 HISTORIC DISTRICTS AND HISTORIC LANDMARKS**

Some lots within the City may be designated as historic landmarks or located in historic districts. Such lots and/or districts are not identified on the zoning map as a zoning district but the lots, and any changes to the buildings, structures, or site, may be subject to a certificate of appropriateness review as identified in Section 1226.08.

There are properties within the City designated as historic landmarks or located in historic overall districts. Historic Districts in the City are identified on the City Zoning Map as an Overlay District. Any alterations to the buildings, structures, or site for properties designated as a Historic Landmark or located in one of the City's Historic Districts or Historic Conservation District Overlays may be subject to a certificate of appropriateness review as identified in Section 1226.08. For additional information, see Chapter 1212: Historic Preservation. For additional information, see Chapter 1212: Historic Preservation.

**1204.06 REFERENCES TO PREVIOUS ZONING DISTRICTS**

Some of the zoning district names and abbreviations established within this code differ from previous versions of this code. In instances where there may be references to the previous zoning district nomenclature, Table 1204-2 identifies how each of the previous zoning districts were renamed or changed for this code. This section shall only be used for comparison purposes only and is not an official representation of the previously applicable zoning district.
xiv. Public Parks and Common Open Spaces
Public parks and common open space shall be provided in accordance with Chapter 1214: Parkland Dedication and Open Space.

(16) H-O: Hillside Overlay District

Purpose
The purpose of the H-O District is to protect development in areas of the City with a slope of 10 percent or more from the potential hazards of soil erosion, slippage, landslides, and other hazards related to steep slopes. Furthermore, it is also the purpose of this district to protect viewsheds into and of the City.

District-Specific Regulations
In addition to any of the standards that apply to the base zoning district, the following standards shall apply to all development within the H-O District.

i. Applicability
   a. The H-O District shall apply to all areas having a total slope of 10 percent or more as designated on the zoning map.
   b. No development shall occur within an area designated as an H-O District without approval of a certificate of zoning compliance in accordance with Section 1226.12.

ii. Permitted Uses
   All permitted principal, accessory, and temporary uses shall be controlled by the base zoning district unless otherwise modified by this section.

iii. Development Standards
   a. No building or structure shall obstruct any natural drainage channel or course without first receiving approval from the Planning Commission.
   b. The certificate of zoning compliance application shall demonstrate that the proposed development shall create the least possible disturbance to natural grade and vegetation.
   c. Any disturbance of the slope and/or soil shall be restored with the planting of native vegetation or other technique to prevent erosion and damage to properties lying at a lower elevation.
   d. To the maximum extent feasible, the development of any area in an H-O District shall be so located on such lot that it will not interfere with the view from adjoining lots. To qualify under the terms of this section, a view or vista shall have such elevation or scope so as, in the opinion of the Planning Commission, to enhance or materially increase the value of a particular lot.

(17) HD & CD Overlays: Historic District & Conservation District
The purpose of the Historic District and Conservation District Overlay is to provide protection and awareness of the City’s preservation efforts to:
   a. To maintain the historic fabric of the city;
   b. To stabilize and increase property values;
c. To preserve and protect the character or valued features of established districts;
d. To maintain and enhance the distinctive character of historic buildings and areas;
e. To safeguard the heritage of the city by preserving districts and landmarks which reflect elements of its history, architecture, archaeology, engineering or culture;
f. To protect and enhance the city's attractions to current and prospective residents, businesses and tourists;
g. To facilitate reinvestment in and revitalization of certain districts and neighborhoods;
h. To facilitate and encourage economic development, public and private investment, and tourism in the city;
i. To reduce conflicts between new construction and existing development in established districts; and
j. To allow districts to work together with the City to formulate a plan that defines their neighborhood that is consistent with City zoning and the Master Plan.

1204.08 PERMITTED PRINCIPAL USES

(a) General Provisions

(1) Table 1204-3 lists the principal uses allowed within all base zoning districts.

(2) Uses permitted in a PD are considered as part of the review and approval of the PD District.

(3) The principal uses allowed within an overlay zoning district shall be as permitted within the base zoning district with the exception that the overlay zoning district-specific regulations may prohibit certain uses otherwise allowed in the base zoning district or may establish additional standards for the establishment of certain uses.

(b) Explanation of Table of Permitted Uses

(1) Organization of Table

Table 1204-3 organizes the uses by use categories and use types.

Use Categories
The use categories provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., household living, mixed use, eating and drinking establishment, etc.). The use categories then organize land uses and activities into specific "use types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

Use Types
The use categories are divided into specific use types. The use types identify the specific uses that are considered to fall within characteristics identified in the broader use category. For example, single-family dwellings, two-family dwellings, and townhome clusters are some of the specific use types that fall under the "household living" use category.
### TABLE 1204-3: PRINCIPALLY PERMITTED USES

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<tr>
<th>Use Category</th>
<th>Use Type</th>
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<th>R-4</th>
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<th>Q-2</th>
<th>B-1</th>
<th>B-2</th>
<th>B-3</th>
<th>I-1</th>
<th>I-2</th>
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<th>Use-Specific Standards</th>
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### TABLE 1204-3: PRINCIPALLY PERMITTED USES

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# TABLE 1204-3: PRINCIPALLY PERMITTED USES

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<th>USE-SPECIFIC STANDARDS</th>
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*Middletown Development Code*
(6) Microbrewery, Microdistillery, or Microwinery

A. A microbrewery, microdistillery, and microwinery shall be allowed in the B-1, B-2, B-3, BC, and UC Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on site so that the use fits into the retail character of the districts.

B. A microbrewery, microdistillery, and microwinery in the I Districts may include a taproom area to serve customers drinks made on site provided the floor area of the taproom does not exceed 25 percent of the total footprint of the structure.

(7) Live/Work Units

A. The majority of the floor area of the unit shall be designated for the nonresidential use.

B. Any nonresidential use permitted in the applicable zoning district is permitted in the live/work unit.

C. A minimum of 50 percent of a structure’s street front façade, at street level, shall be occupied by nonresidential uses.

D. The unit must be constructed with a complete dwelling unit but residential occupancy of the unit is not required (i.e., the living space could be used as an extension of the nonresidential use area) but where there will be occupancy, the occupant shall be the owner or employee of the nonresidential use.

E. Parking shall be prohibited in front of the building unless located on an approved driveway.

(8) Mixed-Use Buildings (With Residential Uses)

A. All dwelling units shall be located above the ground floor.

B. The gross floor area of dwellings shall not exceed the gross floor area of the entire mixed use building in the B-1, B-2, and B-3 Districts.

C. The design shall provide for internal compatibility between the residential and nonresidential uses on the site.

D. The design shall ensure that the residential units have privacy from other uses on the same or adjacent site.

E. Areas for the collection and storage of refuse and recyclable materials shall be located on the site in a location that is convenient for both the residential and nonresidential uses.

F. A mixed-use building shall be designed to provide the residential uses with public or private outdoor space, which may be in the form of open yard areas, roof gardens, individual balconies, or other means acceptable to the Development Code Administrator. The minimum required open space shall be equal to 25 percent of the gross floor area of all dwelling units.

(9) Business and Professional Offices

Business and professional offices may be permitted in the PI District if they are associated with an approved public and institutional use.
(19) **Automotive Sales and Leasing**

A. Automotive Sales and Leasing must be located on lots no smaller than four acres in size, with a minimum lot frontage of 200 feet. If the lot is smaller than these requirements, the use shall require approval of a conditional use application.

B. All outdoor display, storage, and sales facilities must be screened pursuant to Section 1216.06.

C. The use shall be located on an arterial street as designated on the Official Thoroughfare Plan.

D. No outdoor loudspeakers shall be permitted between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

E. The use shall meet all State of Ohio requirements. The dealers license must be on display.

F. Automotive Sales and Leasing must be located on a lot with a permanent principal structure.

(20) **Automotive Repair (Heavy) and Towing Services**

A. A heavy automotive repair or towing services establishment shall be subject to the same requirements as an automotive service station as established in Section 1204.09(d)(21).

B. There shall be no wrecking or salvaging of parts from vehicles on the site.

C. The storage of non-operational and/or disassembled vehicles for longer than a 24-hour period shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet. No such vehicle shall be stored on-site for more than one month.

D. The principal building shall be set back a minimum of 100 feet from any adjacent residential lot. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent residential lot.

(21) **Automotive Service Stations and Parts Sales and Retail Fuel Sales**

A. Gasoline pumps shall be set back a minimum of 20 feet from all lot lines and 50 feet from all adjacent residential lot lines.

B. Canopies shall be set back a minimum of 10 feet from all lot lines and 25 feet from all adjacent residential lot lines.

C. All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.

D. The minimum lot width for uses on an arterial street, as established on the Middletown Street Master Plan, shall be 120 feet. In the case of a corner lot, the minimum lot width shall be 185 feet measured along the arterial street.

E. A solid wood fence or masonry wall at least six feet high shall be provided on any side of the site adjacent to a residential lot.
Chapter 1206: Accessory and Temporary Use Regulations

1206.01 Accessory Uses and Structures

(a) Purpose
This section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses. The intent of this section is to allow a broad range of accessory uses while not creating adverse impacts on surrounding lands.

(b) General Provisions

(1) An accessory use or structure shall be incidental to the primary use of the site, and shall not alter the character of the principal use.

(2) Accessory uses and structures shall be constructed on the same lot as the principal use that it serves.

(3) Any accessory use or structure that does not require a certificate of zoning compliance as part of this chapter shall still be subject to all standards of this chapter.

(4) No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the principal structure.

(5) Small accessory structures such as doghouses, benches, garden decorations, barbeque equipment, etc. shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 200 square feet. Such structures shall be set back a minimum of three feet from all lot lines and shall be subject to the maximum height standards of this section.

(6) Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard without a permit.

(7) An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards of the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building either by common walls or by a breezeway or roof.

(8) The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Butler County, Warren County, or the State of Ohio.
(9) Accessory buildings over 200 square feet in area must have the same exterior finish material on a minimum of 50% of all sides as the primary exterior material and approximate color as the front of the existing primary building. When the above provisions shall not be met, the materials shall be reviewed by the Architectural Review Board pursuant to section 1226.01 of the Middletown Development Code.

(10) Height Limit
A. Unless otherwise stated, the maximum height of a detached accessory structure shall be one story or 15 feet.
B. The height of an accessory building may be increased to 18 feet provided that the primary exterior materials of the accessory building are similar to the primary exterior materials of the principal building.
C. In no case shall an accessory structure be taller than the principal building.

(11) Size Requirements
A. For residential districts, the aggregate square footage of the following accessory buildings and structures shall not exceed more than 25 percent of the total rear yard:
   i. Detached garages and carports;
   ii. Detached storage/utility sheds, gazebos, and other similar structures;
   iii. Porches and decks;
   iv. Ground-mounted solar energy systems;
   v. Swimming pools;
   vi. Tennis and other recreational courts; and
   vii. Other accessory buildings similar in nature to the above mentioned structures, as determined by the Development Code Administrator.
B. There is no maximum square footage of accessory buildings or structures in the nonresidential zoning districts or for accessory uses utilized in the operation of a farm including, but not limited to, barns, silos, shed, etc.
C. In no case shall any accessory building or structure have a larger footprint than the principal building.

(12) Setback and Location Requirements
A. Unless otherwise provided for in this section, all accessory uses and structures shall be located in the side or rear yard. See Section 1204.10 for determination of yards based on the lot type.
B. Unless otherwise required in this section, all accessory uses and structures shall be set back a minimum of six feet from all other buildings on the lot and a minimum of three feet from all lot lines.
C. Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.
1208.06 FENCES, WALLS, AND HEDGES

(a) Permit Required

(1) No person shall construct or erect a fence or wall without first obtaining an approved certificate of zoning compliance and/or a building permit, if applicable. Permits are not required for repairs of existing fences, for replacement of a fence for which the original permit can be produced, or for invisible fences.

(2) A certificate of zoning compliance shall not be required for vegetative hedges or invisible fences but they shall be subject to any applicable requirements of this section.

(3) No person shall construct or erect a fence or wall on a vacant lot unless established as a temporary construction fence.

(b) General Requirements

(1) All fences, walls, and hedges shall be subject to the intersection visibility requirements of Section 1208.05.

(2) Fences shall be subject to the standards of Chapter 1438 of the Middletown Code of Ordinances in addition to this section.

(3) All fences, walls, hedges and invisible fences, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way.

(4) The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.

(5) All fences, walls, and hedges shall be maintained in a neat and orderly manner.

(6) Walls shall be prohibited within all utility easements. Fences that are placed in utility easements are subject to removal without notice by utility companies or the City when work is being done in the utility easements. Replacement of the fence shall be at the property owner’s expense.

(7) Fences, walls, and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.

(8) It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the Development Code Administrator issuing the certificate of zoning compliance, and that the fence does not encroach on another lot or existing easement. The issuance of the certificate and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.
(2) Building Orientation and Entrances

A. Buildings shall generally be parallel to the street they front, unless an alternate orientation is consistent with existing adjacent development along the same block face.

B. The primary building frontage shall incorporate at least one main entrance door.

C. Buildings located at the intersection of two streets may orient a main entrance toward the corner.

D. Service entries shall not be permitted along any façade that faces a street.

E. For buildings that are part of a large-scale development with internal driveways, buildings may be oriented toward the private driveways in the interior of the development if none of the building’s facades has frontage on a public street.

F. Main entrances shall be designed to include at least two of the following design features:
   i. Canopies/porticos above the entrance;
   ii. Roof overhangs above the entrance;
   iii. Entry recesses/projections;
   iv. Arcades that are physically integrated with the entrance;
   v. Raised corniced parapets above the entrance;
   vi. Gabled roof forms or arches above the entrance;
   vii. Outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;
   viii. Display windows that are directly adjacent to the entrance;
   ix. Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above and/or directly adjacent to the entrance; or
   x. Similar features that distinguish the entrance as the main entrance.

(3) Building Materials

A. All building façades that face a public street, except those in the UC District, shall be constructed of the following materials:
   i. Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).
   ii. Architectural metal is permitted, provided that it occupies no more than 10 percent of the façade area and that all fasteners are concealed.
   iii. This subsection shall not be construed to prohibit metal roofs, flashing, or high-quality metal siding such as copper, bronze, or other decorative metal as determined by the Development Code Administrator.

B. All building façades that face a public street in the UC District (all subdistricts) shall be constructed of the following materials:
i. Brick, stone, painted lap cement fiberboard and stucco or exterior insulation finish system (E.I.F.S.) shall be the primary materials on each facade.

ii. Natural wood clapboard, wood board and batten, wood shingles, vinyl, aluminum, or steel siding may be permitted as secondary materials as permitted by fire code ratings. For the purposes of this standard, secondary shall mean less than 50 percent.

iii. Visible roofing materials to be used are dimensional asphalt, slate, tile, or standing seam.

(4) Facade Design and Mass

A. All architectural elevations of principal buildings shall consist of a base, a body, and a cap as described below (See Figure 1210-D.). The height requirements for the base, body and cap shall apply in all districts except the UC District. The height of the base, body and cap in the UC District shall be compatible with the predominant pattern found on the same block as the building subject to review.

![Image of a building with a clear, base, body, and cap.](image)

Figure 1210-D: Image of a building with a clear, base, body, and cap.

i. The base shall occupy the lowest portion of the elevation, and shall have a height no less than eight percent of the average wall height.

ii. The body shall occupy the middle portion of the elevation, and shall have a height no less than 60 percent of the average wall height.

iii. The cap shall occupy the highest portion of the elevation, excluding the roof, and shall have a height no less than eight percent of the average wall height, not to exceed the height of the base.

B. The cap shall consist of at least one of the following architectural features:

i. A cornice;

ii. A parapet;
Chapter 1212: Historic Preservation

1212.01  Purpose

City Council hereby declares as a matter of public policy that the protection, enhancement, and perpetuation of Landmarks, Historic Districts, and Conservation Districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City of Middletown has many significant historic, architectural, and cultural resources which reflects its heritage, this act is intended to:

(a) Protect and enhance the Historic Landmarks, Historic Districts, and Conservation Districts which represent distinctive elements of Middletown’s historic, architectural, and cultural heritage;
(b) Foster civic pride in the accomplishments of the community in the past;
(c) Stabilize and improve property values of designated landmarks, neighborhoods, and districts;
(d) Protect and enhance Middletown’s attractiveness to visitors, tourism, and the support and stimulus to the economy thereby provided;
(e) Insure the harmonious, orderly, and efficient growth and development of Middletown affording the widest possible scope of continuing vitality through private renewal and architectural creativity, within appropriate controls and standards. It is intended to foster a climate in which the City's historic areas may continue to exist as living, changing commercial and residential areas, not static museums;
(f) Encouraging development of vacant and incompatibly developed properties in accordance with the character of the area;
(g) Providing preservation information and advice to property owners and the general public;
(h) Maintaining and enhancing the distinctive character of historic buildings and areas;
(i) Safeguarding the heritage of the City by preserving districts which reflect elements of its history, architecture, archaeology, engineering or culture; and
(j) Provide a review process for the continued preservation and protection of Middletown’s historic resources.

1212.02  Designation of a Historic Landmark or Historic District

A) Proposals to designate or expand historic districts, conservation districts, or designate historic landmarks may be initiated by the Historic Commission, a property owner or by motion of Planning Commission or City Council. Proposals initiated by property owners, Planning Commission or Council shall be referred to the Historic Commission for recommendation and initiation of the formal designation process.

B) Proposals to designate or expand a historic district or conservation district shall be submitted with a rezoning application as well as the information listed below. Proposals to designate a historic landmark shall include, at a minimum, the following additional information:

1. Evidence of property owner interest in landmark designation or location within the proposed historic district.
2. A boundary description.
3. An inventory of historic resources.
4. A description of the architectural and historical significance of properties within the proposed boundaries, including photo documentation of unique elements and also those that are stereotypical of the architectural style.
5. A map or description of existing zoning.

a) In considering any area, place, structure, work of art or similar object in the City as a historic site, historic district, or conservation district the Historic Commission shall apply the following criteria:

(1) The structure or site or area’s character, value, or significance as part of the development of the City, the State, or the United States;
(2) Its location as a site or area of a significant historic event;
(3) Its identification with a person who significantly contributed to the development of the City;
(4) Its embodiment of distinguishing characteristics of an architectural style or type;
(5) Its exemplification of the cultural, economic, social or political heritage of the City;
(6) Its relationship to other distinctive areas or structures designated for preservation;
(7) Its unique location or singular physical characteristic representing an established and familiar feature of the City; and
(8) Its inclusion of prehistoric and/or historic archaeological sites or other important representations of previous cultures.

b) Designation Procedure
The previously named entities, individuals, or Historic Commission shall have the authority to propose designations of any area, place, structure, work of art, or similar object in the City as a historic site, historic district, or conservation district. The following shall be the procedure for the formal designation of such places or areas.

(1) Step 1 – Development Code Administrator Recommendation Required
A. The Historic Commission shall advise the Development Code Administrator of the proposed designation and secure from the Development Code Administrator a recommendation with respect to the relationship of the proposed designation to the Master Plan of the City and any applicable Historic Preservation Plan.
B. The Development Code Administrator shall give an opinion as to the effect of the proposed designation upon the surrounding neighborhood and an opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with a recommendation of approval, rejection, or modification of the proposed designation.
C. Such recommendation shall be submitted in written form by the Historic Commission, along with its recommendation concerning the proposed designation.
D. The Historic Commission shall make a decision whether to proceed with the designation review based on the recommendation of the Development Code Administrator.
(2) Step 2 – Notification

A. If the Historic Commission decides to proceed with designation, the Development Code Administrator shall notify the owner of all properties under consideration for designation. For the purpose of designation or expansion of a group or district, notice shall be published on the City’s webpage and shall be mailed or otherwise distributed to each owner of real property located within such group or district. Whenever possible, the Historic Commission shall secure the owner’s written consent for submittal of the proposed designation, together with its recommendation of findings of fact.

B. The Historic Commission shall make a recommendation concerning the designation of the property to the City Council. Once the proposal to establish or expand a preservation district or to designate an individual property or structure as a historic landmark has been reviewed, the Historic Commission shall schedule a public hearing. The public hearing shall not be more than thirty (30) calendar days after such a proposal is submitted. Notice of the public hearing shall be given according to the following:

i. The Historic Commission shall give the owner(s) not less than fourteen (14) calendar days' written notice of the date, time and place of such hearing.

ii. Notice of the public hearing shall be given to at least one (1) or more newspapers of general circulation in the City. The notice shall be published at least ten (10) calendar days before the date of the hearing.

iii. Notices shall include the time and place of the public hearing, a summary of the proposal and a statement that opportunity to be heard will be afforded to any person interested. Failure of delivery of such notice shall not invalidate any such amendment.

iv. The original application, all comments and additional considerations presented at the public hearing, and the recommendation of the Historic Commission shall be forwarded to the City Council for its consideration.

(3) Step 3 – Historic Commission Public Hearing

A. The Historic Commission shall conduct the public hearing as provided and shall provide an opportunity for all interested parties to express their opinions.

B. The Historic Commission shall determine if any or all of the criteria listed in Section 1212.02 have been met.

C. The Commission shall then make a recommendation regarding the proposed designation, in writing, within 30 days after the initial hearing date and shall notify the owner or any person having a legal interest in such property, as well as other interested parties who request a copy.

D. The Historic Commission shall state in its recommendation findings of fact that constitute the basis for its decision and shall transmit such recommendation concerning the proposed designation to the Middletown City Council.
(4) Step 4 – Consideration by City Council

A. The City Council shall give due consideration to the findings and recommendations of the Historic Commission, input provided by the persons participating in the public hearing before the Historic Commission, in addition to the recommendation of the Development Code Administrator, in making its determination with respect to the proposed designation of any areas, places, structures, works of art or similar objects as historic sites or historic districts.

B. The City Council may, at its discretion, hold public hearings on any such proposed designation, whether such designation is proposed with the consent of the owner or after public hearings before the Historic Commission. The City Council may then designate by ordinance areas, places, structures, works of art, or similar objects as historic sites, historic districts, or conservation district.

(5) Step 5 – Notification of Designation

Within 14 days, the Historic Commission shall notify the Chief Building Official of the official designation. The Commission shall also send, by certified mail, a certified copy of the designation ordinance to the owner and any person having a legal interest in any properties involved in the designation.

(6) Step 6 – Record of Designation

The Historic Commission shall direct the Law Director to cause a record of such designation to be filed with the applicable county recorder.

1212.03 MINIMUM MAINTENANCE STANDARDS

(a) Maintenance Required

Nothing in this chapter shall be construed to prevent the ordinary repair and maintenance of any exterior architectural feature of a historic landmark, historic district, or conservation district property which does not involve a change in design, material, color, or outward appearance. No owner or person with an interest in real property designated as a historic landmark or property within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Commission, produce a detrimental effect upon the character of the historic landmark or historic district as a whole, or the life or character of the property itself. Examples of such deterioration include:

(1) Deterioration of exterior walls or other vertical supports;
(2) Deterioration of roofs or other horizontal members;
(3) Deterioration of exterior chimneys;
(4) Deterioration of exterior stucco, siding, trim, brick, stone or mortar, including chipping or peeling paint;
(5) Ineffective waterproofing of exterior walls, roofs, roof drainage systems, foundations, including broken or damaged windows and doors;
(6) The accumulation of rubbish and debris;
(2) A landscaping plan shall be submitted with any application for alternative equivalent review if the request includes a variation of the landscaping standards of this chapter.

(3) The landscaping plan shall demonstrate how the development will comply with the provisions of this chapter, and shall include, at a minimum, the location, size, spacing, species, form, and quality of all existing and proposed materials intended to fulfill the requirements of this section. The landscaping plan should also illustrate topography, the location of all utilities, private irrigation wells and/or any proposed underground sprinkler system or hose bib attachments.

1216.03 INSTALLATION

Landscaping required as part of this section shall be installed prior to issuance of an occupancy permit or commencement of use, or at a different date mutually agreed to by the applicant and the Development Code Administrator if weather or material availability justifies a later installation date. In no case shall landscaping installation occur more than one year after the issuance of a certificate of occupancy.

1216.04 LANDSCAPING MATERIALS

(a) Existing Landscape Material

(1) Unless otherwise noted, existing landscape material in healthy condition can be used to satisfy the requirements of this section in whole or in part provided they meet all requirements of this section.

(2) The Development Code Administrator shall have the authority to determine if any existing landscape material can be used to satisfy the requirements of this section.

(b) Intersection Visibility

All landscaping shall be subject to the intersection visibility standards established in Section 1208.05.

(c) Walls and Fences Used for Landscaping

(1) Walls and fences used to comply with the standards of this section shall also comply with Section 1208.06.

(2) Chain link fences with or without wooden or synthetic slat material shall not be allowed when used to satisfy the buffer requirements of this section.

(d) Planting Standards

All plants utilized in the fulfillment of the requirements of this section shall meet the following requirements:

(1) Plants installed shall meet the standards for size, form, and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition); and
(2) All planting materials shall follow the City of Middletown Comprehensive Plant Species list.

(3) Trees shall be balled and burlapped or in containers. Shrubs, vines, and ground covers can be planted as bare root as well as balled and burlapped or from containers.

(4) Plant materials should consist of hardy, native and/or drought-tolerant vegetation to the maximum extent feasible.

(5) All planting materials shall be free of noxious weeds, disease, and pests.

(6) All trees selected to be protected shall be protected according to ANSI A300 standards.

(7) Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the City.

(8) Vegetation shall comply with the minimum size requirements established in Table 1216-1.

(9) Vegetation shall be subject to review by the Natural Resource Coordinator when applicable.

### Table 1216-1: Minimum Size Requirements for Vegetation

<table>
<thead>
<tr>
<th>Vegetation Type</th>
<th>Minimum Size Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deciduous Trees (Canopy or Understory)</td>
<td>2 inch DBH</td>
</tr>
<tr>
<td>Evergreen Trees</td>
<td>6 feet in height when planted</td>
</tr>
<tr>
<td>Shrubs</td>
<td>2 feet in height when planted</td>
</tr>
<tr>
<td>Hedges</td>
<td>Size as needed so that the plant material forms a continuous, unbroken screen within one planting season</td>
</tr>
</tbody>
</table>

DBH = Diameter at Breast Height

(10) A list of recommended trees for Middletown is on file with the office of the Development Code Administrator. Substitution can be accepted if approved by the Development Code Administrator.

(e) Species Diversity
To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the standards of Table 1216-2.

### Table 1216-2: Species Diversity

<table>
<thead>
<tr>
<th>Number of Trees Required on Site</th>
<th>Maximum Percentage of Trees that May Be of a Single Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-5</td>
<td>100%</td>
</tr>
<tr>
<td>6-19</td>
<td>50%</td>
</tr>
<tr>
<td>20-39</td>
<td>33%</td>
</tr>
</tbody>
</table>
B. Not have an intensity to cause glare visible to pedestrians or vehicle drivers, nor shall the illumination be of such brightness as to cause reasonable objection from adjacent residential districts; and

C. No illuminated sign shall be permitted if any part of the sign flashes on or off, has lighting that moves or illustrates movement, or displays changing degrees of intensity in illumination. This regulation applies to signs located outside of buildings and to window signs inside buildings that can be seen from the outside. This prohibition on flashing, moving, or intermittent lighting shall not apply to permitted electronic message centers in Section 1220.03(l).

(2) Signs shall not be lighted so as to obstruct traffic control or other public information signs.

(n) Prohibited Signs

The following types of signs are specifically prohibited within the City:

(1) Vehicle signs viewed from a public road with the primary purpose of providing signage not otherwise allowed by this code. Vehicle signs include those attached to or placed on a vehicle or trailer. Vehicles or trailers shall not be parked continuously in one location to be used primarily as additional signage. This does not apply to a vehicle parked at a driver’s residence and is the primary means of transportation to and from his or her place of employment.

(2) Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;

(3) Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign.

(4) Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention;

(5) Beacons and searchlights, except for emergency purposes; and

(6) Signs mounted above the roofline of a building.

(7) Deteriorated Signs that are unsafe and or insecure;

(8) Abandoned Signs;

(9) Windblown devices, not including projecting signs,

(10) Blade Signs;

(11) Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;

(12) Balloon signs or air activated signs; and

(13) Any sign not specifically allowed by this chapter.
A. Up to a total of 24 square feet of temporary signs are permitted on each lot.
B. The signs are limited to yard signs or banner signs subject to the sign-specific standards in Section 1220.09(d).
C. There shall not be a maximum number of signs but the maximum sign area for any individual sign shall be six square feet with a maximum height of four feet.
D. A certificate of zoning compliance shall not be required for these signs.

(2) Additional Signage
A. In addition to the signage allowed year round above, Table 1220-3 establishes the total square footage, height, and allowances for temporary signs allowed on each individual lot, in the applicable nonresidential zoning district.
B. Each sign type shall be subject to the standards established for each sign type in this section.
C. There shall be no maximum number of signs provided the aggregate total square footage of sign does not exceed the amount established in Table 1220-3 unless limited by the sign type standard.
D. A certificate of zoning compliance shall be required for any sign over 16 square feet in sign area unless otherwise stated in this section.

<table>
<thead>
<tr>
<th>TABLE 1220-3: TEMPORARY SIGN ALLOWANCES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SIGN TYPE</strong></td>
</tr>
<tr>
<td>---------------</td>
</tr>
<tr>
<td>A-Frame or T-Frame Sidewalk Signs</td>
</tr>
<tr>
<td>Balloon or Air-Activated Graphics</td>
</tr>
<tr>
<td>Banner Signs</td>
</tr>
<tr>
<td>Blade Signs</td>
</tr>
<tr>
<td>Flag Banner Signs</td>
</tr>
<tr>
<td>Yard Signs</td>
</tr>
</tbody>
</table>

(d) Standards for Temporary Sign Types

(1) A-Frame or T-Frame Sidewalk Signs
A-Frame or T-Frame sidewalk signs are permitted in any nonresidential district in accordance with the following requirements;
A. A certificate of zoning compliance shall be required for the initial placement of a sign. If a sign with an approved certificate of zoning compliance is replaced by a sign identical in size and location, a new certificate of zoning compliance shall not be required for the replacement sign.

B. The sign may be located on a public or private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas.

C. If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven feet wide.

D. The sign must be free-standing and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.

E. The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.

F. The sign shall be internally weighted so that it is stable and windproof.

G. The sign shall only be placed outside during the hours of the establishment’s operation.

H. The City of Middletown shall be held harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign.

(2) Ballon or Air-Activated Signs
A. Only one balloon or air-activated sign is allowed on any lot at one time.

B. The sign shall be securely anchored to the ground.

C. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height. Such setback shall include any wires, rope, or other materials used to securely fasten the sign to the ground.

(3) Banner Signs
A. Banner signs may be attached to a building, fence, or other similar structure. Banners attached to posts and mounted in a yard or landscape area shall be regulated as a temporary yard sign.

B. The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

C. The maximum sign area for banner signs shall be 24 square feet.

D. Banner signs shall be permitted for up to 15 consecutive days, four times per calendar year with the exception of paragraph (E) below.

E. For certificates of zoning compliance applications related to the establishment of a new use within an existing building where there is existing permanent signage, a banner sign may be approved for up to 45 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign and shall require a certificate of zoning compliance.
(4) **Blade Signs**

A. There shall be a minimum separation distance of 50 feet as measured along the street frontage.

B. The signs shall be securely anchored in the ground or within a portable base designed for such function.

C. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height.

(5) **Flag Banner Signs**

A. Flag banner signs shall be mounted on the building wall either by bracket or by a pole.

B. The bottom of the flag banner sign shall be no lower than nine feet measured from grade of the property line closest to the banner.

C. Flag banner signs shall not extend beyond three feet over the sidewalk measured from their point of mounting on the storefront wall.

D. Flag banner sign mounting devices shall have structural integrity as authorized by the Chief Building Official.

(6) **Yard Signs**

There shall be a maximum of two faces to the sign, mounted back-to-back.

1220.10 **NONCONFORMING SIGNS**

(a) All signs that do not conform to the specific standards of this code may be considered legally nonconforming if the sign was erected in conformance with a valid certificate of zoning compliance and complied with all applicable laws at the time of the sign's installation or if the sign was part of a property that was annexed to the City.

(b) A sign shall lose its legal nonconforming status and must be brought into compliance with the provisions of this chapter by an application for and issuance of a certificate of zoning compliance or by complete removal, if any of the following occurs:

1. If such sign is damaged to an amount exceeding 50 percent of the sign's replacement value, as determined by at least two sign companies requested to provide a quote;

2. The sign type or structure is altered in any form;

3. The sign is relocated;

4. The nonconforming sign and its structure (including support and frame and panel) are determined by the Development Code Administrator to be unsafe or in violation of this code or the building code, and are declared a nuisance.

(c) Failure to bring a sign into compliance after loss of a legal nonconformity status as defined in (b) above shall cause the sign to be considered an illegal sign.
1226.08 Certificate of Appropriateness (COA)

(a) Purpose

The purpose of the certificate of appropriateness (COA) is to provide a procedure by which to review construction, renovation, expansion, and demolition projects on structures located in the Highlands Historic District and the South Main Historic District, Main Street Commercial District, Central Avenue Commercial District, Oakland Conservation District, or a structure that is designated by the City Historic Commission or National Register. In an effort to preserve the character of this area, the City has established reasonable development standards and design guidelines for buildings and structures within the district and this procedure allows for a comprehensive review of the activities against the adopted standards and guidelines.

The Development Code Administrator will review Certificate of Appropriateness applications based on the review criteria outlined in this code as well as the Secretary of the Interior Standards for the Treatment of Historic Properties and the Rehabilitation Bulletin. Applicants are encouraged to use the Secretary of the Interior Standards for the Treatment of Historic Properties and the Rehabilitation Bulletin as a reference for preservation projects.

(b) Applicability

(1) Historic District

(2) No person owning, renting, or occupying property which has been designated a landmark or which is situated in a designated historic district shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a historic landmark or property within a historic district, nor shall any person make any material change in appearance of such property, its light fixtures, signs, awnings, windows, siding, roof, doors, shutters, sidewalks, fences, walls, retaining walls, steps, paving, or other exterior elements which affect the appearance and cohesiveness of the historic landmark or historic district, without first obtaining a certificate of appropriateness from the Historic Commission or Development Code Administrator, as applicable. No permits for zoning, building or demolition shall be issued without first obtaining a certificate of appropriateness.

(3) Site improvements such as the establishment of a parking lot or structure, landscaping, or other site work shall also be subject to this section unless otherwise waived by the Historic Commission.

(2) Conservation District

No person owning, renting, or occupying property that is located within a designated Conservation District shall carry out any major exterior alteration such as an addition, new construction, or demolition of a structure that is visible from the public right-of-way without first obtaining a Certificate of Appropriateness from the City Historic Commission or Development Code Administrator, as applicable. No permits for zoning, building or demolition shall be issued without first obtaining a required certificate of appropriateness.
The Development Code Administrator has the authority to review and forward any exterior alterations to the City Historic Commission that they feel do not preserve/enhance the neighborhood Conservation District.

(4) Any application to the City for a building permit for any change in the environment or the exterior of a building shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, within seven days after receipt thereof. An application may be filed by the applicant directly with the Commission at the same time that an application for a building permit is filed or in lieu of filing for a building permit if no building permit is required for the proposed change. A building permit shall not be issued until a Certificate of Appropriateness is issued.

(4) Projects and activities that are exempt from the design review process are the following:

A. Ordinary repair and maintenance of a building or structure which does not change or alter the exterior appearance of the building or structure;
B. Changes in occupancy not involving structural or exterior work;
C. Interior electrical wiring, VAC or plumbing work on an existing structure;
D. Work that is related to the replacement of existing materials and architectural elements with the same materials, colors, and designs; and
E. Interior building renovations which will not alter and/or affect the exterior elevations and facade of the building or structure or any architectural features that are visible from the outside, unless otherwise prohibited in Section 1212.03.
F. No certificate of appropriateness shall be required if immediate action, including demolition, is necessary to remedy conditions imminently dangerous to life, health or property as determined by the Chief Building Official or the Division of Fire or the Department of Public Health.

(c) Determining the Significance of a Structure

(1) When making decisions or recommendations about changes to structures subject to the COA requirement, the Historic Commission shall have the authority to make a determination of the historical or architectural significance of the structure based on this section.

(2) For structures that the Historic Commission finds are not historically or architecturally significant, the Historic Commission may relax or waive the standards or guidelines that apply to the project.

(3) If the Historic Commission finds that the structure is historically or architecturally significant, the standards and guidelines of this code may be fully applied at the discretion of the Historic Commission.

(4) The Historic Commission shall determine whether a structure or site is significant based on the structure's:
Any alteration, addition, demolition, removal or construction involving any property subject to the provisions of this chapter.

**City**
The City of Middletown, Ohio

**City Council**
The City Council of the City of Middletown, Ohio

**City Engineer**
The City Engineer of the City of Middletown, Ohio

**Code Text or Map Amendment**
An amendment or change to the text of this code or to the zoning map as reviewed and decided upon by City Council in accordance with Section 1226.03.

**Colleges and Higher Educational Institutions**
Any private or public secondary educational institution that includes, but is not limited to: secretarial schools, colleges and universities, business schools, seminaries, or any other institution providing collegiate level curriculum.

**Co-Location**
The process of providing space for more than one user on a telecommunications tower or facility.

**Community Centers**
A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development to which the use is associated with and that may be privately owned or jointly owned by property owners.

**Community Gardens**
A single piece of land that is gardened collectively by a group of people that may include individual garden plots designated for individual gardens.

**Completed Application**
An application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

**Condominium**
A multi-family dwelling or development containing individual owners’ dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of a homeowners’ or property owners’ association and/or Ohio law.

**Conforming Commercial Earth Station**
A satellite earth station that is two meters or less in diameter and is located in an area where commercial, office or industrial uses are permitted under this code. Such an area would not extend to those portions of a site where most land uses are forbidden or severely restricted, such as, for example, street areas, utility easements, visibility triangles, required setback areas, and buffy yards.

**Conservation District (CD)**
Any area designated by ordinance of the City to preserve a defined district’s character, architecture styles, densities, massing, and similar features.

**Construction**
The act of constructing an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property subject to the provisions of this chapter.

**Construction Dumpster**
A container used for the temporary storage of rubbish or materials related to the related construction site or project.

**Construction Trailer or Office**
A mobile home, trailer, or similar temporary structure that is used as an office or for storage in conjunction with a construction project.

**Contractor Offices**
General office uses that are used by contractors (e.g., painters, HVAC, construction firms, etc.) solely for their administrative activities, but which do not have any storage of materials or storage of vehicles.
Lot, Interior
A lot that has a single street frontage, a rear lot line, and at least two side lot lines. See Section 1204.10(a).

Lot, Nonconforming
A vacant lot that does not meet the minimum lot width, street frontage, and/or lot area requirements of the applicable zoning district.

Lot, Panhandle (Flag)
A lot not fronting or abutting a public street and where access to the public street is limited to a narrow strip of land. See Section 1204.10(a).

Major Recreational Equipment
A term encompassing any type of vehicle used primarily for recreational pleasure. Examples include, but are not limited to, travel trailers, motor homes, boats, snowmobiles, etc. Recreational vehicles shall include any mobile structure designed for temporary occupancy, but shall exclude manufactured homes.

Manufacturing and Production (Heavy or Outdoors)
An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its lot line. Such use shall also include any manufacturing or assembly facility that requires outdoor storage areas that exceed 200 square feet in area.

Manufacturing and Production (Indoors)
The manufacturing, processing, or assembly of products within a fully enclosed structure where noise, odor, light, or vibrations is not noticeable from the adjacent properties. This use type shall not include establishments that provide electroplating, metal stamping or forging, or vehicle processing. See also “manufacturing and production (heavy or outdoors)” and “manufacturing and production with caustic or hazardous materials.”

Manufacturing and Production with Caustic or Hazardous Material
An establishment that is defined as a “manufacturing and production (heavy or outdoors)” use above but that also utilizes caustic or hazardous materials as determined by the Development Code Administrator.

Marquee
As defined in Chapter 1434 of the City of Middletown Code of Ordinances.

Maximum Extent Feasible
That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be taken into consideration.

Mechanical Equipment
Equipment, devices and accessories, the use of which relate to water supply, drainage, heating, ventilating, air conditioning and similar purposes.

Medical or Dental Clinics/Offices and 24-Hour Urgent Care
Office or clinic uses concerned with the diagnosis, treatment, and care of human beings related to medicine or dental. This term shall also include the operation of an urgent care clinic that may be opened for 24 hours and that is meant to accommodate non-emergency medical situations. This definition does not include “hospitals,” “skilled nursing facilities” or “personal care facilities.”

Message, Commercial
Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Message, Noncommercial
Any sign, wording or logo that does not represent a commercial message or commercial speech. See also *speech, commercial.*

MICROBREWERY, MICRODISTILLERY, OR MICROWINERY
An establishment with a primarily use as a bar or tavern where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises in a limited quantity subordinate to the primary table service restaurant use. The gross floor area utilized in a microbrewery, microdistillery or microwinery for the production of beer, liquor, wine, or other alcoholic beverage shall be no greater than the gross floor area utilized for the associated bar or tavern. A microbrewery, microdistillery or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law.
tasting room or taproom may exist in a microbrewery, microdistillery or microwinery where patrons may sample the manufacturer's products

Mining and Extraction (Use Category)
The mining and extraction use category is where the uses typically involve the extraction, removal, or basic processing of minerals, soil, or other natural resources from the earth. Such uses also include quarrying, mining, or other procedures typically done at an extraction site.

Mixed Use Buildings (With Residential Uses)
A lot or building that contains a mixture of uses that are permitted in the applicable zoning district but that exclude any uses permitted in the agricultural use category but does include residential dwelling units.

Mixed Uses (Use Category)
Development of a lot or structure with two or more different uses such as, but not limited to, residential, office, retail, public, or institutional.

Mobile Food Vending
See Chapter 1037 of the City of Middletown Code of Ordinances.

Mobile Home
A vehicle or movable structure mounted on wheels, designed and equipped to provide living and sleeping facilities for one or more persons, drawn by its own or other motive power and containing more than two rooms exclusive of a bathroom.

Mobile Home, Commercial Truck, and Recreational Vehicle Sales and Leasing
Facilities where new or used boats, trailers, commercial trucks (not passenger pick-up trucks), mobile homes, and recreational vehicles, in operational condition, are sold or leased to customers.

Motels
A building or portion thereof used for providing lodging for transient guests and operated for profit which may provide additional services such as restaurants, meeting rooms and recreational facilities. Motels shall provide access to the rooms via outdoor hallways or sidewalks. See also "hotels."

Multi-Tenant Buildings (Without Residential Uses)
A principal building with multiple nonresidential use types that are all allowed in the applicable zoning district but are located in separate tenant spaces. A strip center with a mixture of retail uses such as restaurants, retail stores, and personal service establishments is an example of a multi-tenant building.

Night Clubs
A place operated for profit, where food may or may not be served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons. This use type does not include "entertainment device arcades."

Nonconformity
Lots, uses of land, structures, and uses of structures and land in combination, lawfully existing at the time of enactment of this ordinance or its amendments, which do not conform to the regulations of the applicable zoning district, and are therefore incompatible. See also the definitions for "use, nonconforming," "lot of record," "building, nonconforming," and "structure, nonconforming."

Nursery Schools or Day Care Centers (Children or Adults)
A facility administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours, by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any portion of the 24-hour day in a building other than the child's own home. This use may include, but is not limited to, after school programs, office day care centers and principal structures used for only day care/nursery school programs. This term may also include adult day care centers where persons other than children, family members, or guardians care for adult for a portion of a 24-hour day in a building other than the adult's home.

Nursery Schools or Day Care Centers (Children or Adults) (Accessory Use)
This accessory use shall allow for the same activities as defined for "nursery schools or day care centers (child or adult)" except the use shall be accessory to another principally permitted use.

Offices (Use Category)
The offices use category is characterized by commercial uses that are generally not retail-oriented that are utilized to provide services to residents and business.
PUBLIC NOTICE
PROHIBITED SIGNAGE

Recent Middletown Development Code updates pertaining to Chapter 1220 Signage: Prohibited & Temporary Signage. These changes become effective on Friday, November 6, 2020.

EXAMPLES OF PROHIBITED SIGNAGE

1. Deteriorated Signs that are unsafe and or insecure;
2. Abandoned Signs;
3. Windblown devices, not including projecting signs,
4. Blade Signs;
5. Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;
6. Balloon signs or air activated signs; and
7. Any sign not specifically allowed in the Middletown Development Code.

QUESTIONS? PLEASE CALL THE PLANNING & ZONING DEPARTMENT AT 513-425-7970 OR EMAIL AT DEPT_PLANNING@CITYOFMIDDLETOWN.ORG
CITIZEN
COMMENTS
COUNCIL COMMENTS
CITY MANAGER REPORTS
CONSENT

AGENDA
At 5:30 p.m., Mayor Condrey called the City Council meeting to order in in Council Chambers, Lower Level of the City Building.


Andrew Wendt, 4602 Manchester Road, Middletown, Ohio. “I am 56 years old and have lived in Middletown, on the east end, most of my life. Which, by all measures, has been a quiet, happy, middle-class life. My employer owns and manages the office building on the corner of Towne Blvd. and Roosevelt Ave. My present struggle in that area is making sure we check the property for needles or other drug paraphernalia before we have a potential tenant stop by for a showing. Tenants are hard to come by these days as the economy and the city’s reputation are a tough combination to overcome. Even in my personal life, I am one of the last of my friends and family to live in Middletown. With most having left for nearby communities where they feel safer. I hope that would things not change suit within the next two or three years. Within my last three years in Middletown, I have had my home broken into by a career criminal struggling with addiction and I have seen an armed robbery of a Subway. Prior to that as a boy here in Middletown, I had a knife held to my throat while being mugged. A few years later my friend and I had our bicycles stolen by a thief with bolt cutters. In 2016, my son, while at lunch in the Madison High School cafeteria, saw two of his eighth-grade classmates sitting next to him shot before the gunman fled and was later apprehended. If it can happen at Madison, it can happen here. Being the victim of, or the witness to, such horrible things is something no child should ever have to experience. These stories mentioned above are not the experiences that will attract or keep either citizens or businesses. They are rather the realities of life in Middletown that drive them away. It is, therefore, my strongest belief that this council should authorize acceptance of the 2020 COPS Grant to assist with community-oriented policing services. In closing, I would like to ask two questions: If this council, with all its dedication and concern for the Middletown community, will not make the safety of its citizens a top priority, who will? And if today, with a potential $250,000 grant for community policing, the council is unwilling or unable to improve our safety, then when? I welcome the new City Manager and I realize that there are a good number of ways to run the numbers on the City’s crime stats to make the City look better on paper. Remember that paper changes nothing, we don’t live on paper, we don’t suffer on paper, we don’t die on paper. All of that happens out there in our homes and in our streets. There is only one division of this government whose mission is to protect and serve and that is the Middletown Division of Police and we need more of them out there with us. We need this grant and we need your help.

Levi J. Cramer, 24 Aberdeen Drive, Middletown, Ohio. Members of council, I am here tonight to speak for Rodney Muterspaw, “Mayor and Council, Good Evening. Hope this week finds you well. I wish I could attend tonight, however, work calls me elsewhere. I am writing in support of the COPS grant that will be voted on tonight. As a longtime resident and one who is experienced in “the business”, I understand the importance of police staffing, retention and community building. Community building requires staffing, not just social media. Officers personally in the field, at events and in the neighborhoods are required. Please don’t look at this grant as a bill or invoice, look at it as an investment. The grant has been successful at so many other agencies and in this volatile time in our country, the investment in our community is vital and necessary. The large number of retirements coming up in the police department is unparalleled. The difference in starting pay compared to top pay is a huge savings and could easily help defray the cost of the grant long term. If there was ever a time to do it, this is it. You have an amazing police department led by a good and caring Chief. They are really trying their best. Please give them the support necessary to achieve the community goals set forth that we all want them to reach. Thank you, stay safe and thank you for your service.”

Mr. Cramer also spoke for Heather Gibson, owner of Triple Moon Coffee, “Good Evening members of Council. First let me officially welcome our new City Manager to Middletown. We are happy that you have joined our community and I wish you well in your new position. I am writing this in lieu of attending the council meeting tonight in person due to Covid. As one of the business owners and citizens who came and spoke to council last year due to our homelessness issue I am writing this in support of an item that I believe you are discussing tonight. That is giving the City Manager Authorization to accept a grant to allow the police department to hire two additional officers for the purpose of community policing. While we certainly have discussed this before particularly last year during all the discussions of homelessness and the problems we were having at the time. My opinion is that never before has there been a time where community policing is needed more than now. Not because we do not already have good community relations but because we must keep that up and do more. This city is large enough that we can certainly benefit from having such a program operating within our police department. Middletown thankfully has escaped what other cities have faced this last couple of months, I believe we have done that because of our leadership, those that have understood that building a bridge between our police department and our community is of upmost importance. So now we must not only continue but expand upon it. The only way we do this is by adding additional people to achieve this goal. I believe our department can achieve even greater things in this community given the opportunity to grow this particular program. As a citizen and a business owner this is
Scotty Robinson

Scotty Robinson, 3475 Village Drive, stated that he is rising in support of accepting the COPS grant and encouraging all of Council to vote “yes.” In the lives of public officials there is a time to stop talking and to actually do something. This is one of the opportunities to take action and to make our city better. I have heard you talk about the problems of homelessness and drug addiction. You have discussed ways to encourage good economic development and improve the quality of life for our citizens. I encourage you and I will be watching to see how serious you are about these things. I encourage you to do the right thing and to accept the COPS grant.

Joseph Cox

Joseph Cox, 231 Heather Way, owner of Average Joe Films, a small media company in Middletown. We produced the lip-sync video for the Police Department a few years ago. I am friends with the Police Department and I hear them calling for this aid. I hate public speaking but I am here tonight because of my love for my city and the Police Department. I commend Council for applying for this COPS grant; this is a creative and proactive way to aid in public safety without hurting our dwindling budget. Almost all of you ran for office with a focus on improving public safety, passing this would be an excellent start. Even with adding 2 more cops our department is understaffed. Perhaps it is time we talked about wasteful spending if our Police Department is understaffed and we can’t afford to hire more officers. For instance, a $20,000 annual contract with Spot On Media; how many videos are the making, what is that doing for the City and marketing? What about paying a third-party company $25,000 to evaluate a drop zone for skydivers? This COPS grant is a no brainer; it saves taxpayer dollars, expands the police force and improves public safety. This is what we have been asking for and you have the support of the citizens.

COUNCIL COMMENTS

Ms. Vitori

Ms. Vitori sent her thoughts and prayers to all of the people affected by the Oregon District shooting that happened a year ago. She asked to see a copy of the Quadrex invoice.

Mr. Mulligan

Mr. Mulligan expressed his appreciation to the citizens that provided comments about the COPS grant. It is unfortunate that this decision is being portrayed us vs. them situation. That is not the case. City Council, the City administration, the Police Department and City staff are all working together for the common good of the City. Federal grants are more complicated than just accepting money and can have significant financial strings attached. We need to be realistic, as a result of the Covid pandemic income tax revenues are down $2-3 million for the first half of the year. We all believe that public safety is a priority but we have to finance that in a way that is fiscally responsible. We will continue to gather additional information and have more discussion on this issue.

Ms. Condrey

Ms. Condrey stated that she is very supportive of accepting the COPS grant and that to her the issue seems simple. If the City cannot fulfill the grant requirements in the future, then the unused grant funds would have to be returned. Ms. Condrey asked residents to make a long-term commitment to use water more efficiently, reduce pollution, and save energy by taking part in the ninth annual Wyland National Mayor’s Challenge for Water Conservation during the month of August. To participate, residents can go to mywaterpledge.com, and then make a series of online pledges to conserve water on behalf of Middletown. Cities with the highest percentage of residents who take the challenge in their population category a chance to win $3,000 toward their home utility bills, and hundreds more eco-friendly prizes. Students and teachers are encouraged to take part, as well.

Ms. Nenni

Thank you to everyone tonight who came down to share their thoughts on the COPS grant application, as well as to Heather Gibson and former Chief Muterspaw for their emailed comments. We have a department that is fortunate to have the overwhelming support of the community. I encourage Chief Birk to pursue grants and realize cost savings that can enhance his department. Additionally, I hope that the current tensions and challenges in our society encourage higher numbers of qualified candidates to apply for our outstanding department. As I understand, in recent hiring efforts the number of applicants is very low, to the point that we still have 1 vacant office, and two others that haven’t been filled because of COVID restrictions. To that end, our young people need to know how important law enforcement is to the safety we enjoy on a daily basis. One of our local baristas from Triple Moon Coffee Company, who is a strong supporter of our police, has an interest in becoming an officer and was recently harassed for wearing a “Thin Blue Line” shirt at work. This is the kind of culture climate that we struggle against and we have a responsibility to lift up young people who not only support our officers but are willing to risk their lives for us as future officers. To this young lady, and everyone like her, please keep pursuing your dreams.

CITY MANAGER REPORTS

City Manager Palenick stated that over the past few weeks he has enjoyed meeting with City staff and learning more about the operations of the City. He is looking forward to meeting with more community members in the next few weeks. He announced that the City is planning to reopen the restrooms at the City parks. The Covid relief funding covers the costs of the extra cleaning and sanitizing that must be done under these circumstances.
CONSENT AGENDA

To Approve City Council Minutes from April 24, May 5, May 9 and May 19, 2020

To Receive and File Board and Commission Minutes from:
- MidPointe Library Board- April 21 and May 19, 2020
- Board of Health- June 9, 2020

To Receive and File Oaths of Office from James Palenick and Charles Daniels

Confirm the Personnel Appointments of Jessi Lovejoy, Corrections Officer, and Sydney Hensley, Dispatcher, Department of Public Safety, Division of Police.

Approve the Final Record Plat for the Renaissance II Section 9 & 11

Mr. Mulligan moved to approve the issues and actions listed on the Consent Agenda. Ms. Nenni seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Waive Charter

Mr. Mulligan moved to suspend the Charter provision that requires reading on two separate days and to declare Ordinance No. O2020-38 and Resolution No. R2020-24 emergency measures to be read one time only. Mr. Moon requested that Resolution No. R2020-24 be delayed and considered at the next regular meeting. Mr. Mulligan withdrew his motion.

Mr. Mulligan moved to suspend the Charter provision that requires reading on two separate days and to declare Ordinance No. O2020-38 an emergency measure to be read one time only. Ms. Nenni seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ord. No. O2020-36 ED Grant BAAB'S Kayaking, LLC.

Ordinance No. O2020-36, an ordinance authorizing the City Manager to enter into an agreement for a Small Business Economic Development Grant with BAAB’S Kayaking, LLC. was read for the second time.

Mr. Mulligan moved to approve Ordinance No. O2020-36, an ordinance authorizing the City Manager to enter into an agreement for a Small Business Economic Development Grant with BAAB’S Kayaking, LLC. Ms. Vitori seconded. Motion carried. Ayes: Mr. J. Mulligan, Ms. Vitori, Ms. Nenni, Mr. Moon. Abstain: Ms. Condrey.

Ord. No. O2020-37 Forgivable Loan Brent’s Smokin’ Butts & Grill LLC

Ordinance No. O2020-37, an ordinance authorizing the City Manager to enter into a forgivable loan agreement with Brent’s Smokin’ Butts & Grill LLC for Small Business Economic Development Assistance was read for the second time.

Mr. Mulligan moved to approve Ordinance No. O2020-37, an ordinance authorizing the City Manager to enter into a forgivable loan agreement with Brent’s Smokin’ Butts & Grill LLC for Small Business Economic Development Assistance. Ms. Vitori seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. J. Mulligan.

Res. No. R2020-24 COPS Grant

Resolution No. R2020-24, a resolution authorizing the City Manager to accept a grant and enter into a grant agreement for the 2020 COPS Hiring Program with the U.S. Department of Justice and declaring an emergency was read with no action requested until August 18, 2020.

Mr. Moon asked if the only penalty of not fulfilling the grant requirements was to repay the grant award. Mr. Palenick confirmed that the only penalty for noncompliance was to repay the grant.

Ms. Nenni asked what the likelihood of the responsibility of having to repay the grant for noncompliance being forgiven because of the pandemic. Mr. Palenick stated that many communities are experiencing extraordinary circumstances due to the pandemic and that may increase the likelihood of leniency of the requirements. Business as usual is certainly not usual right now. The City will continue to advocate for flexibility.

Ms. Vitori discussed accepting the grant and putting aside $80,000 each year just in case the City cannot comply with the terms of the grant and the funds must be returned. Mr. Palenick stated that the worst-case scenario is that the grant money is similar to an interest free loan. He stated that this is the kind of thing that the 15% reserve in the General Fund is for.

Ms. Condrey stated that accepting this grant feels like putting our money where our mouth is. We have talked so much about the homelessness, drug abuse and mental health issues that our City is facing. We want more economic development, home ownership and tourism and the Community Oriented Policing program is the answer. Let’s take this free money and help everyone in the Middletown community. It’s a big win and a morale booster for the City for us to commit to this program.

Ms. Vitori stated with the upcoming evictions homelessness and crime will increase. Across the state homicides are up 24%. This is a good time to increase our police force with this federal money.

Mr. Mulligan stated that option 3 is still on the table. This option is to decline the $250,000 COPS Grant award and add two sworn police officers to the Middletown Police Department, create a two-member Community Oriented Policing Unit and fund it out of the General Fund. He stated that he was willing to make that motion to authorize Mr. Palenick to move forward with that option.
Ms. Nenni stated that she tends to agree. The COPs grant money comes with a lot of strings attached and that is her concern. She is trying to find out how the grant works and how it doesn’t work. She questioned if the COPS grant was the right answer at this time.

Ms. Vitori questioned that we know what the risk is and we have a plan to mitigate the risk, why not take the federal money?

Mr. Moon stated that we need more officers now and he is prepared to support the acceptance of the COPS grant. He would rather use the federal money first and the City money later.

Ms. Nenni explained that COPS grants have been available since the mid 90’s. The City of Middletown has only accepted one grant. In 2011, Middletown accepted a grant of a million dollars for four new officers. The total number of officers then was 78. Over the last 10 years we have reduced the number of officers to 68. Keeping those officers required attrition to maintain their salaries. Middletown’s history with COPs grants does not give me confidence especially considering the requirement to pay the money back for noncompliance. We need more officers on the force. We should have more officers if we can afford to support the community-oriented policing. I have a hard time supporting something that doesn’t have a good track record in our City.

Ms. Vitori asked Ms. Nenni if accepting the grant and putting aside the $250,000 in case the City cannot comply with the terms of the grant and the funds must be returned eased her concerns. Ms. Nenni said this was the first she had heard of it and that she would like to think about it.

Ms. Vitori commented that Ms. Nenni and Mr. Mulligan supported spending $250,000 of City money today to create the Community Oriented Policing Unit and Mr. Moon, Ms. Condrey and herself supported accepting the grant for the program.

Mr. Palenick stated that the COPS grants have changed dramatically over the years. The local match has increased significantly and they do have retention requirements. He explained that option three, which was to fund two new officers out of City funds was based on 7 or 8 upcoming retirements in the department. These retirements of long tenured officers and the hiring of new officers will result in a significant savings in salaries. These savings are expected to more than cover the required local match. We recognize the need for additional officers and we want to implement Community-Oriented Policing, the savings are expected to be enough to accomplish that, unless things get dramatically worse as a result of the pandemic.

Ms. Condrey commented that all of Council supports implementing Community-Oriented Policing and we will think outside the box over the next few weeks and come together and vote on it.

Ordinance No. 02020-38, an ordinance establishing a procedure for and authorizing a second amendment to a contract with Howell Contractors, Inc. for replacement of the North Middletown Interceptor Sewer and declaring an emergency was read.

Mr. Mulligan moved to approve Ordinance No. 02020-38, an ordinance establishing a procedure for and authorizing a second amendment to a contract with Howell Contractors, Inc. for replacement of the North Middletown Interceptor Sewer and declaring an emergency. Ms. Nenni seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. J. Mulligan, Ms. Condrey, Ms. Vitori.

Ordinance No. 02020-39, an ordinance authorizing a contract with The Great Lakes Construction Co. for repairs to the University Boulevard Bridge and declaring an emergency was read with no action requested until August 18, 2020.

Ordinance No. 02020-40, an ordinance authorizing a contract with Norfolk Southern Railway Company related to the repairs to the University Boulevard Bridge and declaring an emergency was read with no action requested until August 18, 2020.

Ordinance No. 02020-41, an ordinance amending Section 209.06 (Authority of the City Manager: Purchases) of the Codified Ordinances was read for the first time.

At 6:18 p.m., the meeting was declared adjourned until August 18, 2020 at 5:30 p.m. in Council Chambers.

Nicole Condrey, Mayor

Attest: __________________________

ADDENDUM
ROLL CALL

Meeting called to order

Members present: Tom Brickey, Chair  
Bill Becker, Vice-Chair  
Kathleen Batliner

Staff Present: Kay Sauer, Civil Service Secretary  
Brittany Grimes, HR Specialist

APPROVAL OF MINUTES

Motion: Moved by Mr. Brickey to approve the minutes of the meeting held June 25, 2020. Ms. Batliner seconded the motion. Motion passed.

NEW BUSINESS

1. ELIGIBILITY LISTS

   a. Maintenance Worker—Ms. Grimes discussed the Maintenance Worker results for the written exam held on June 29, 2020. She stated that there were 24 applicants who applied, 15 passed the written, 1 failed the written, and 8 no shows. She stated that the recommendation is to certify all that passed to the eligibility list. She advised that Mr. Brickey reviewed the applications prior to the meeting.

      Motion: Moved by Mr. Brickey to approve the eligibility list for the position of Maintenance Worker. Mr. Becker seconded the motion. Motion passed.

   b. Patrol Officer—Ms. Grimes discussed the results for the Patrol Officer written and physical exam held on June 27, 2020. She stated that there were 44 applicants who applied, 18 passed the written, 5 failed the written, 21 no shows for written and 23 passed the physical. She stated that the recommendation is to certify all that passed to the eligibility list.

      Motion: Moved by Ms. Batliner to approve the eligibility list for the position of Patrol Officer. Mr. Brickey seconded the motion. Motion passed.

   c. Corrections Officer—Ms. Grimes discussed the results for the Corrections Officer written and physical exam held on June 23, 2020 and July 11, 2020. She stated that there were 3 applicants who applied for the exam; 3 passed the written, 0 failed the written, 0 no show and 3 passed the physical. She stated that the recommendation is to certify all that passed to the eligibility list. She advised that Mr. Becker reviewed the applications prior to the meeting.

      Motion: Moved by Mr. Brickey to approve the eligibility list for the position of Corrections Officer. Mr. Becker seconded the motion. Motion passed.

2. POSITION DESCRIPTIONS

   a. Water Reclamation Operator—Ms. Grimes informed Commission that the revisions made to the Water Reclamation Operator job description involve updates to the position qualification section along with the duties and responsibilities section.

      Comments: Mr. Brickey recommended to use the word "required" in place of "appropriate" in one of the updates. Ms. Grimes stated she would make the update and bring the revised job description to the next meeting.

3. UPDATE ON JOB ANNOUNCEMENTS AND EXAMS

   a. Patrol Officer—Ms. Grimes informed Commission that we will be holding a Patrol Officer exam July 25, 2020 with 24 candidates expected to be in attendance.
b. Fire Captain & Deputy Chief – Ms. Grimes stated the Fire Captain assessment center was held July 11, 2020 and the Deputy Chief assessment was held July 12, 2020. She further stated that the results from the Ohio Fire Chief’s Association should be received by early next week.

c. Water Reclamation Operator – Ms. Grimes advised Commission that only one candidate passed the Water Reclamation Operator written exam on June 15, 2020. She stated that the position has been reposted and the exam will be held July 22, 2020.

d. Executive Account Clerk – Ms. Grimes informed the Commission that due to an upcoming retirement the Executive Account Clerk position was posted July 10, 2020 and the exam has been scheduled for August 4, 2020.

REPORTS
1. Personnel Transactions for the month of June 2020 were received by Commission.

ADJOURN
Motion: Moved by Mr. Becker to adjourn the meeting. Mr. Brickey seconded the motion. Motion passed.

Ms. Grimes advised that the next meeting date is August 20, 2020 at 8 a.m.

APPROVED BY
______
Tom Brickey, Chair
Middletown Civil Service Commission

Date: 8-6-20
ROLL CALL

Meeting called to order

Members present: Tom Brickey, Chair
Bill Becker, Vice-Chair

Staff Present: Kay Sauer, Civil Service Secretary
Brittany Grimes, HR Specialist

ATTENDANCE

Motion: Moved by Mr. Becker to excuse Kathleen Battiner from the August 6, 2020 Civil Service meeting. Mr. Brickey seconded the motion. Motion passed.

APPROVAL OF MINUTES

Motion: Moved by Mr. Brickey to approve the minutes of the meeting held July 16, 2020. Mr. Becker seconded the motion. Motion passed.

NEW BUSINESS

1. ELIGIBILITY LISTS
   
a. Fire Captain - Ms. Grimes discussed the Fire Captain results for the written exam held on June 15, 2020 and the assessment center held on July 11, 2020. She stated that there were 5 applicants who applied, 4 passed the written, 1 failed the written, and 4 passed the assessment center. She stated that the request is to certify the eligibility list.

   Motion: Moved by Mr. Becker to approve the eligibility list for the position of Fire Captain. Mr. Brickey seconded the motion. Motion passed.

b. Fire Deputy Chief – Ms. Grimes discussed the Fire Deputy Chief results for the written exam held on June 15, 2020 and the assessment center held on July 12, 2020. She stated that there were 5 applicants who applied, 5 passed the written and 5 passed the assessment center. She stated that the request is to certify the eligibility list.

   Motion: Moved by Mr. Becker to approve the eligibility list for the position of Fire Deputy Chief. Mr. Brickey seconded the motion. Motion passed.

c. Water Reclamation Operator– Ms. Grimes discussed the Water Reclamation Operator results for the written exam held on June 15, 2020. She stated that there were 7 applicants who applied, 1 passed the written, 2 failed the written and 4 no shows. She stated that the recommendation is to certify the one that passed to the eligibility list. She advised that Mr. Brickey reviewed the application prior to the meeting.

   Motion: Moved by Mr. Brickey to approve the eligibility list for the position of Water Reclamation Operator. Mr. Becker seconded the motion. Motion passed.

d. Patrol Officer – Ms. Grimes advised that there are three applicants (KenDahl Bowles, Aaron Adkins, and Jessica Brown) who are currently on the eligibility list set to expire on October 16, 2020, are requesting that their names be extended on the list for an additional year.

   Ms. Grimes advised that a Patrol Officer written exam was held on July 25, 2020 and had 25 applicants who applied for the exam, 15 passed the written, 1 failed the written, 9 no shows and 16 passed the physical.

   Motion: Moved by Mr. Brickey to approve the eligibility list for the Patrol Officer exam held on July 25, 2020 and to extend the names of KenDahl Bowles, Aaron
Adkins, and Jessica Brown who are on the October 16, 2020 list for an additional year. Mr. Becker seconded the motion. **Motion passed.**

e. **Executive Account Clerk** – Ms. Grimes discussed the results for Executive Account Clerk written examination held on August 4, 2020. She stated that there were 7 applicants who applied for the exam, 4 passed the written and 3 failed the written. She stated that the recommendation is to certify the eligibility list.

**Motion:** Moved by Mr. Becker to approve the eligibility list for the position of Executive Account Clerk. Mr. Brickey seconded the motion. **Motion passed.**

f. **Middletown City Schools - Maintenance** – Ms. Grimes discussed the results for the Middletown City Schools Maintenance written exam held on July 25, 2020. She stated that there were 10 applicants who applied for the exam, 8 passed the written, 0 failed the written and 2 no shows. She stated that the recommendation is to certify all the applicants that passed to the eligibility list. She advised that Mr. Brickey reviewed the applications prior to the meeting.

**Motion:** Moved by Mr. Brickey to approve the eligibility list for the Middletown City Schools Maintenance position. Mr. Becker seconded the motion. **Motion passed.**

2. **POSITION DESCRIPTIONS**


   **Motion:** Moved by Mr. Brickey to approve the position description for Water Reclamation Operator. Mr. Becker seconded the motion. **Motion passed.**

3. **UPDATE ON JOB ANNOUNCEMENTS AND EXAMS**

   a. **Water Reclamation Operator** – Ms. Grimes advised Commission that the Water Reclamation Operator position has been re-posted to get a broader pool of candidates and the exam will be held August 17, 2020.

   b. **Dispatcher** – Ms. Grimes informed Commission that a Dispatcher exam has been re-posted and will be held August 22, 2020.

**ADJOURN**

**Motion:** Moved by Mr. Becker to adjourn the meeting. Mr. Brickey seconded the motion. **Motion passed.**

Ms. Grimes advised that the next meeting date is August 20, 2020 at 8 a.m.

**APPROVED BY**

\[ Signature \]

Tom Brickey, Chair
Middletown Civil Service Commission

**Date:** 8-20-20
CITY OF MIDDLETOWN
BOARD OF HEALTH
Minutes
August 11, 2020

The City of Middletown Board of Health met in remote session at 7:30 AM on August 11, 2020.

Members Present
Mayor Nicole Condrey, BS, President
Jeff Bonnell
Margie Davis, RN
Dr. Anita Scott Jones, Ed.D., MBA, BS
Sally Kash, MS, RN
Charlene Kurtz, BSN, RN
Dr. Ken Patrick, DVM
David Schul

Health Department Staff Present
Jackie Phillips, MPH, BSN, RN
Carla Ealy, RS
Chandra Corbin, BSN, RN
Amanda McDonald

Absent and Excused
All board members were present.

ROLL CALL
Motion: Mr. Schul moved, seconded by Ms. Kurtz to excuse Ms. Kash.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kurtz, Patrick, Schul). No-0. Motion passed.

CITIZEN COMMENTS
None.

APPROVAL OF MINUTES-July 2020
Motion: Ms. Kurtz moved, seconded by Mr. Schul to approve the July 2020 Board of Health Meeting Minutes.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kurtz, Patrick, Schul). No-0. Motion passed.

RECEIVE AND FILE FINANCIAL REPORT- July 2020
Motion: Ms. Kurtz moved, seconded by Mr. Schul to receive and file the July 2020 Financial Report.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kurtz, Patrick, Schul). No-0. Motion passed.

EXECUTIVE SESSION-Personnel Discussion
Motion: Ms. Kurtz moved, seconded by Mr. Schul to move to executive session.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kurtz, Patrick, Schul). No-0. Motion passed.

Ms. Kash joined the remote meeting at 7:40 AM.

Regular session resumed at 7:59AM

ROLL CALL
All board members were present.
EDUCATION PRESENTATION- COVID-19 Testing
Ms. Corbin explained to the board that there are currently two COVID tests available. The first, and “gold standard” of COVID-19 testing, is the PCR test. This test is a nasopharyngeal swab that tests for the viral RNA found in COVID-19. While these tests have proven to be more accurate than antigen testing, the results are not as quickly available. The second is an antigen test, this tests for proteins that are identified in the COVID-19 virus. These tests are proven to be fairly accurate, but are not typically used by itself for diagnosis. An antigen test would be given to an individual that has known exposures and is experiencing signs and symptoms of COVID-19. Antigen testing is currently the only rapid testing available, providing results in as little as 15-20 minutes. Antigen positive patients are not considered confirmed, instead being considered probable until confirmed by a PCR test. Currently we are looking for quicker methods to test for COVID-19 without losing the accuracy provided by PCR testing.

OLD BUSINESS

PHAB
Ms. Phillips informed the board that she was invited by Health Commissioner Bauer to remotely join Clinton County’s virtual PHAB site visit. CMHD is still awaiting site visit dates.

NEW BUSINESS

Travel Authorizations
None.

Approval of Syringe Exchange Program (SEP) Contract
Ms. Phillips informed the board that in the past, the SEP contract was renewed quarterly and has now been changed to bi-annually. No services were provided by SEP to Middletown for the second quarter of 2020. This new amended contract will take us through the end of the year with no impact on the health department’s budget.

Motion: Dr. Jones moved, seconded by Ms. Kash to approve the Syringe Exchange Program Contract.
Roll call Vote: Yes-7 (Bonnell, Davis, Jones, Kash, Kurtz, Patrick, Schul). No-0. Motion passed.

Approval of Amendment to 2020 Agreement between City of Middletown Health Department and Wright State University’s Applied Policy Research Institution
Ms. Phillips explained to the board that due to COVID-19, the dates of the agreement have now been extended through January 2021.
Roll call Vote: Yes-7 (Bonnell, Davis, Jones, Kash, Kurtz, Patrick, Schul). No-0. Motion passed.

REPORTS

Health Commissioner
Ms. Phillips informed the board that the governor and state dictate that any death certificate with COVID-19 listed on it, will count as a COVID death. In light of this change, the COVID deaths for Middletown residents has increased from two to seven, with three of them occurring in July. Discussion about COVID and comorbidities followed.
Ms. Phillips stated that moving forward, CMHD will be focusing on the mental health of the community. Implementing strategies to offset the “mood” of COVID.
Ms. Phillips informed the board that there have been 232 non-fatal drug overdoses within the City of Middletown year-to-date, compared to the 246 year-to-date 2019 totals. Ms. Phillips stated that while many programs have been placed on hold due to COVID, CMHD was able to utilize Access Counseling to provide a syringe exchange in Middletown.
Medical Director
Dr. Jennewine stated that no communicable disease report was provided by Butler County at the time of the Board of Health meeting.

Director of Nursing
Ms. Corbin explained to the board that there was a large uptick in COVID cases throughout July. Ms. Corbin states that we will need to see a continuous decline for fourteen consecutive days before believing that we are headed in the right direction.
Ms. Corbin informed the board that school clinics will be working with Centerpoint to provide pretesting at a mass drive-thru event. If needed, CMHD will help Centerpoint notify patients of their results.

Environmental Director
Ms. Ealy informed the board that CMHD has received the following plan reviews for new facilities throughout July: Lunar Body Art, Chipotle, Garrett’s Mobile, Dairy Queen, and Greentree Science Academy.
Ms. Ealy stated that while the Ohio Department of Agriculture was scheduled to conduct a retail food establishment survey in the year of 2020, it has now been placed on hold until 2021 due to COVID-19.
Ms. Ealy states that CMHD will continue to conduct septic inspections.

ADJOURNMENT
The meeting was adjourned at 8:39AM. The next meeting will be held on September 8, 2020 at 7:30 AM.

[Signatures]
Jacquelyn D. Phillips, MPH, BSN, RN
Secretary
Nicole Conrey, President
City of Middletown Board of Health
DATE: September 3, 2020

TO: Jim Palenick, City Manager

FROM: Susan Cohen, Director of Administrative Services
Written by: Rebecca Zaccaria, Human Resource Specialist

______________________________________________________________________________

Administrative Services Contract for Anthem Life

PURPOSE
To give permission to the City Manager to enter into a contract for services with Anthem Life to administer life insurance plans for employees and qualified retirees.

BACKGROUND AND FINDINGS

The City has been using a life insurance plan for employees and qualified retirees administered by Anthem Life since January 1, 2019. The City’s health care broker requests bids and negotiates new proposals on the City’s behalf. It was determined that remaining with Anthem Life is the most beneficial to the health plan. In August 2020, we were presented an agreement regarding their proposed fees for the 2021 plan year. Fees represent the amount we pay to provide life insurance for all current employees along with qualified retirees.

The total cost for this coverage in 2021 is $92,956.14. The Healthcare Committee voted on and approved of using Anthem Life for the 2021 plan year on August 28, 2020.

ALTERNATIVES
To not approve the agreement. This would cause a disruption in employee and retiree life insurance coverage.

FINANCIAL IMPACTS
No additional impact. These fee payments were included in the budget for employee benefits.

EMERGENCY/NON EMERGENCY
Non-Emergency. Professional services. Consent agenda.
ADMINISTRATIVE SERVICES DEPARTMENT

Human Resources

August 31, 2020

TO: Jim Palenick, City Manager

FROM: Brittany Grimes, Human Resources Specialist

SUBJECT: PROMOTIONAL APPOINTMENT – EXECUTIVE ACCOUNT CLERK

We are recommending the promotional appointment of KAYLA CARLE to the position of Executive Account Clerk in the Department of Finance, Division of Treasury. Ms. Carle was selected from the eligibility list as a result of Civil Service testing procedures. She will fill the vacancy created by the anticipated retirement of Pamela Johns on October 30, 2020.

Ms. Carle will be assigned to Range 186, Step F which provides a salary of $1,898.52 bi-weekly and $49,361.52 annually. The effective date of the promotion is September 16, 2020.

c: Amy Schenck, Clerk of Council
    Susan Cohen, Administrative Services Director
    Jake Burton, Finance Director
    Human Resources
    Finance (Payroll)
    file

cmtg9/15/20

TREASURY
Authorized Strength – 3
Current Staff Level – 3 (including Pamela Johns)
TO:          Jim Palenick, City Manager
FROM:        Brittany Grimes, Human Resources Specialist
SUBJECT:     APPOINTMENT – PATROL OFFICER

We are recommending the conditional appointment of AARON ADKINS to the position of Patrol Officer in the Department of Public Safety, Division of Police. He was selected from the eligibility list as a result of Civil Service testing procedures. Mr. Adkins is currently the Animal Control Officer and will fill the vacancy created by the retirement of Kimberly Robinson.

Mr. Adkins will be assigned to Range PO1, Step A which provides a salary of $2,111.32 bi-weekly, $54,894.32 annually. The appointment is conditional on the candidate passing the required medical evaluation.

/bg

c:          Amy Schenck, Clerk of Council
            David Birk, Police Chief
            Human Resources
            Finance (Payroll)
            file

ccmtg 9/15/20

PATROL OFFICER
Authorized Strength – 56
Current Staff Level – 54
September 9, 2020

TO: Jim Palenick, City Manager

FROM: Brittany Grimes, Human Resources Specialist

SUBJECT: APPOINTMENT – WATER RECLAMATION OPERATOR

We are recommending the conditional appointments of CHRISTOPHER ARIAS and CHRIS SCHWITALSKI to the position of Water Reclamation Operator in the Department of Public Works & Utilities, Division of Water Reclamation. Both were selected from the eligibility list as a result of Civil Service testing procedures. Mr. Arias will fill the vacancy created by the resignation of Daryl Higgins and Mr. Schwitalski will fill the vacancy created by the resignation of David Vazquez.

Both will be assigned to Salary Range 237, Step E, which provides a salary of $1,558.88 bi-weekly, $40,530.88 annually. The appointments are conditional upon the candidates successfully passing the required medical evaluation.

/bg

c: Amy Schenck, Clerk of Council
   Susan Cohen, Administrative Services Director
   Scott Tadych, Public Works & Utilities Director
   Gerry Burris, Water Reclamation Manager
   Human Resources
   Finance (Payroll)
   file

ccmtg9/15/20

WATER RECLAMATION
Authorized Strength: 17
Current Staff Level: 15
MOTION ITEM
DATE: September 2, 2020

TO: Susan Cohen, Acting City Manager

FROM: Ida Hawkins, Administrative Services Paralegal

**REQUEST FOR AUTHORIZATION TO TRANSFER PROPERTY LOCATED AT 2005 GRAND AVENUE**

**PURPOSE**
To request Council authorize the transfer of 2005 Grand Avenue to the adjacent property owners Seth and Andrea Morris for $100.00.

**BACKGROUND AND FINDINGS**
The City acquired the property from the Land Bank on July 10, 2020. The home was demolished at the City’s expense in March 2018. The property was forfeited to the State of Ohio in May 2020. The Land Bank acquired it in June of 2020. The Morris’s have been caring for the lot and the City has not incurred fees and no fees have been assessed against this property for maintenance since that time. This has saved the City a minimum of $1,160 in mowing fees that would not have been recouped.

When this property was in the hands of the Land Bank in June 2020, the Morris’s were told that the cost of the property would be $100.00. In the process of opening up the Side Lot Program this property was transferred from the Land Bank to the City, which was a miscommunication between our offices. Based on the requirements set forth by Council the fee to purchase the lot should be $500, however, staff is requesting this be reduced to $100.00 based on the prior expectation set for the transfer of this particular property.

**ALTERNATIVES**
Council may choose to not transfer the property. The City would need to assume maintenance and the cost to mow the property (currently the City pays contractors a rate of $40 per hour) and have the trees removed, which can be upwards of $5,000 per tree, as they have begun to fall.

**FINANCIAL IMPACTS**
The City would not assume any additional cost of maintenance on this property.

**EMERGENCY/NON EMERGENCY**
Non-Emergency. Motion Agenda.
DATE: September 2, 2020

TO: Susan Cohen, Director of Administrative Services

FROM: Ida Hawkins, Administrative Services Paralegal

PURPOSE
To request City Council to authorize the transfer of property to adjacent property owners through the Vacant Side Lot Program.

BACKGROUND AND FINDINGS
The City has acquired properties in various ways over many years, some structures were demolished with Land Bank grant funds, some at the then owner’s expense. The City has incurred fees against some of the properties for maintenance over the past two years. Sales of City-owned property have been mostly frozen while the Housing Study was completed and a new plan was developed.

Citizens were afforded the opportunity to submit a letter of interest form requesting to purchase vacant properties to extend their current lots when the City decided that the parcels were no longer needed for a municipal purpose. Per the requirements of the program, all lots are being sold for $500, except when the fees accrued over the last two years are in excess of that amount, in which case the lot will be sold for the higher amount. The list of lots to be sold is below:

<table>
<thead>
<tr>
<th>PARCEL NO.</th>
<th>ADDRESS</th>
<th>STREET</th>
<th>SALE PRICE</th>
<th>INTERESTED PARTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q6511021000045, 046, 047</td>
<td>1005</td>
<td>ELWOOD ST</td>
<td>$500.00</td>
<td>Snelling, Greg</td>
</tr>
<tr>
<td>Q6521035000053</td>
<td>605</td>
<td>FIFTEENTH AVE</td>
<td>$500.00</td>
<td>Fountain, Inell</td>
</tr>
<tr>
<td>Q6542032000169</td>
<td>2215</td>
<td>HILL AVE</td>
<td>$600.00</td>
<td>Helvey, Linda D.</td>
</tr>
</tbody>
</table>

All of the parties listed above have met the requirements of the Vacant Side Lot Program discussed with Council June 16, 2020, and all have been confirmed to be current on all city taxes, have no outstanding property maintenance code violations and have obligated themselves to maintain the property in compliance with our zoning code.

ALTERNATIVES
Council may choose to not transfer the property. The City would need to continue to pay the cost to mow and maintain the property. Currently the City pays contractors a rate of approximately $40 per hour for mowing, and tree removal can be upwards of $5,000 per tree when needed.
FINANCIAL IMPACTS
Transferring the properties means that the City is no longer responsible for the cost of maintenance of the properties. The City will recoup some of the money it has expended for maintenance and homeowner’s property values will rise with the extra land.

EMERGENCY/NON EMERGENCY
Non-Emergency. MOTION AGENDA
DATE:  September 3, 2020

TO:  Jim Palenick, City Manager

FROM:  Susan Cohen, Director Administrative Services
        Written by: Rebecca Zaccaria, Human Resource Specialist

PURPOSE
To give permission to the City Manager to enter into a contract for services with Anthem Dental to administer the dental care plan for employees.

BACKGROUND AND FINDINGS
The City has been using a dental care plan for employees through Anthem Dental since January 1, 2018. The City’s health care broker requests bids and negotiates new proposals on the City’s behalf. It was determined that remaining with Anthem Dental is the most beneficial to the health plan. In August 2020, we were presented an agreement regarding their proposed fees for the 2021 plan year. Fees represent the amount we pay to provide basic dental coverage in our health insurance plans.

The total cost for this plan in 2021 is $252,765. This represents a reduction in cost of 4% from 2020. The Healthcare Committee voted on and approved of using Anthem Dental for the 2021 plan year on August 28, 2020.

ALTERNATIVES
To not approve the agreement. This would cause a disruption in employee dental care.

FINANCIAL IMPACTS
No additional impact. These fee payments were included in the budget for employee benefits.

EMERGENCY/NON EMERGENCY
Non-Emergency. Professional services. Motion agenda
LEGISLATION
ITEM 1
RESOLUTION NO. R2020-26

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR AND DECLARING AN EMERGENCY.

The City Council of the City of Middletown, Butler/Warren Counties, Ohio met in regular session on the 15th day of September, 2019 and moved for the adoption of the following Resolution:

WHEREAS, City Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1, 2020; and

WHEREAS, the Budget Commission of Butler County, Ohio has certified its action thereon to this City Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within the ten mill tax limitation;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted.

Section 2

There be and is hereby levied on the tax duplicate of said City the rate of each tax necessary to be levied within and without the ten mill limitation as on Schedules A and B, attached hereto.

Section 3

The Clerk of this Council is hereby directed to certify a copy of this Resolution to the County Auditor of said County.
Section 4

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: so that this resolution can be filed with the County Auditor by October 1st as required by state law, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ____________

Attest: ________________

Clerk of the City Council
# SCHEDULE A

**SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR’S ESTIMATED TAX RATES**

<table>
<thead>
<tr>
<th>FUND</th>
<th>AMOUNT APPROVED BY BUDGET COMMISSION INSIDE 10 MILL LIMITATION</th>
<th>AMOUNT TO BE DERIVED FROM LEVIES OUTSIDE 10 MILL LIMITATION</th>
<th>COUNTY AUDITOR’S ESTIMATE OF TAX RATE TO BE LEVIED INSIDE 10 MILL LIMIT</th>
<th>COUNTY AUDITOR’S ESTIMATE OF TAX RATE TO BE LEVIED OUTSIDE 10 MILL LIMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL FUND</td>
<td>1,500,000.00</td>
<td></td>
<td>2.32</td>
<td></td>
</tr>
<tr>
<td>POLICE PENSION</td>
<td>194,000.00</td>
<td></td>
<td>0.30</td>
<td></td>
</tr>
<tr>
<td>FIRE PENSION</td>
<td>194,000.00</td>
<td></td>
<td>0.30</td>
<td></td>
</tr>
<tr>
<td>GENERAL BOND RETIREMENT FUND</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PARK FUND</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RECREATION FUND</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CHARTER AMENDMENT</td>
<td>1,185,000.00</td>
<td></td>
<td>1.83</td>
<td></td>
</tr>
<tr>
<td>ONE MILL IMPROVEMENT</td>
<td>647,000.00</td>
<td></td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td>MIAMI CONSERVANCY</td>
<td>97,000.00</td>
<td></td>
<td>0.15</td>
<td></td>
</tr>
<tr>
<td>SENIOR</td>
<td>614,000.00</td>
<td></td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1,888,000.00</strong></td>
<td><strong>2,543,000.00</strong></td>
<td><strong>2.92</strong></td>
<td><strong>3.98</strong></td>
</tr>
<tr>
<td>FUND</td>
<td>COUNTY AUDITOR'S ESTIMATE OF YIELD OF LEVY (Carry to Schedule A)</td>
<td>MAXIMUM RATE AUTHORIZED TO BE LEVIED</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>---------------------------------------------------------------</td>
<td>-------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GENERAL FUND</td>
<td>Current expense levy authorized by voters on 11/00, 1952 not to exceed 5 years. CHARTER AMENDMENT</td>
<td>1,185,000.00</td>
<td>1.83</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Current expense levy authorized by voters on 11/00, 1952 not to exceed 5 years. ONE MILL IMP.</td>
<td>647,000.00</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Current expense levy authorized by voters on 11/00, 1952 not to exceed 1 year.</td>
<td>19</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Current expense levy authorized by voters on 11/00, 1952 not to exceed 1 year.</td>
<td>19</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL GENERAL FUND OUTSIDE 10 MILL LIMITATION</td>
<td>1,832,000.00</td>
<td>2.63</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SPECIAL LEVY FUNDS</td>
<td>Levy authorized by voters on 11/00, 1952 not to exceed 5 years. CONSERVANCY</td>
<td>97,000.00</td>
<td>0.15</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 20 years. Senior</td>
<td>614,000.00</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 1 year.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 1 year.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 1 year.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 1 year.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 1 year.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Levy authorized by voters on 11/00, 2012 not to exceed 1 year.</td>
<td>20</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
DATE: August 17, 2020
TO: Jim Palenick, City Manager
FROM: Jacob Burton, Finance Director

2021 Property Tax Resolution

PURPOSE

The purpose of this report is to explain the resolution accepting the amounts and rates as determined by the Butler County Budget Commission for property tax levies to be collected in 2021.

BACKGROUND AND FINDINGS

Around mid-year, the Middletown City Council approves its annual tax budget for the following year and submits it to the Butler County Budget Commission for review. This was approved by City Council at the June 6, 2020 meeting. The annual tax budget submitted by the City lists the property tax millage of the City’s real estate levies that will be collected the following year. The Budget Commission reviews the millage to assure that they are necessary. After the Commission’s review is done, the resolution accepting the rates is returned to the City for approval by the City Council. The Butler County Budget Commission has approved the property tax millage listed in the 2021 Tax Budget and now City Council action is needed.

FINANCIAL IMPACT

The 2021 property tax resolution lists the following estimated property tax collections for 2021 in Butler and Warren counties:

<table>
<thead>
<tr>
<th>Description</th>
<th>Mills</th>
<th>Estimated Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>4.15</td>
<td>$2,685,000</td>
</tr>
<tr>
<td>Police Pension</td>
<td>.30</td>
<td>194,000</td>
</tr>
<tr>
<td>Fire Pension</td>
<td>.30</td>
<td>194,000</td>
</tr>
<tr>
<td>Capital Improvements</td>
<td>1.00</td>
<td>647,000</td>
</tr>
<tr>
<td>Senior Levy</td>
<td>1.00</td>
<td>614,000</td>
</tr>
<tr>
<td>Conservancy</td>
<td>.15</td>
<td>97,000</td>
</tr>
<tr>
<td>Total</td>
<td>6.90</td>
<td>$4,431,000</td>
</tr>
</tbody>
</table>
**ALTERNATIVES**

The Ohio Revised Code states that this resolution must be filed with the Butler County Auditor by October 1.

**EMERGENCY/NON EMERGENCY**

Recommend approval to pass as a 2nd reading emergency measure at the meeting on September 15, 2020 in order for us to meet the deadline of October 1. The amounts and rates determined by the County Budget Commission were received August 26th.
LEGISLATION
ITEM 2
ORDINANCE NO. O2020-43

AN ORDINANCE AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FEDERAL ASSISTANCE, A CONSOLIDATED PLAN AND A PROJECTED USE OF FUNDS, UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED, FOR FISCAL YEAR 2020 AND DECLARING AN EMERGENCY.

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, provides for a program of community development block grants; and

WHEREAS, the City of Middletown is an entitlement city as defined under said Act, and is entitled to financial assistance; and

WHEREAS, the City of Middletown, pursuant to the Housing and Community Development Act of 1974, as amended, has held two public hearings which were open to the public; and

WHEREAS, said public hearings were for the purpose of considering and obtaining the views of the citizens of Middletown on community development and housing needs; and for the purpose of providing the citizens with an opportunity to participate in the development of the 2020-2024 Consolidated Plan and Projected Use of Funds; and

WHEREAS, the Consolidated Plan and Proposed Use of Funds are in compliance with previously enacted Urban Renewal Plans of the City and has been reviewed by the Middletown Consolidated Planning Committee; and

WHEREAS, said Application for Federal Assistance requires certain certifications to be submitted along with and part of said Application;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio that:

Section 1

The City Manager is hereby authorized and directed to submit an application, including all understandings and certifications contained therein, to the fullest extent of funding allowed and determined by the Department of Housing and Urban Development, under Title I of the Housing and Community Development Act of 1974, as amended, to act as the authorized representative of the City of Middletown, and to provide such additional information as may be required.

The 2020-2024 Consolidated Plan shall be in a form substantially similar to Exhibit “A”, attached hereto.
Section 2

The City Manager, Law Director and such other appropriate and responsible officials are hereby authorized and directed to execute on behalf of the City of Middletown such certifications as are necessary for the submission of said application for the 2020 funding year.

Section 3

The City Manager is authorized to enter into the appropriate grant agreement(s) with the United States Department of Housing and Urban Development and agreement with sub-recipients of the grant funds, as necessary. All such agreements shall be in a form and substance acceptable to the Law Director.

Section 4

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to allow the action plan and amended consolidated plan to be submitted in a timely manner and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:___________________

Attest:___________________
Clerk of City Council

H:\Law\Leg\2020 Leg\O CDBG funds – con plan and action plan 2020
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Executive Summary

ES-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The Consolidated Plan for the City of Middletown has been prepared in response to a consolidated process developed by the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grants (CDBG) program.

This Consolidated Plan outlines housing, community and economic development needs, priorities, strategies, and projects that will be undertaken by the City of Middletown with the funds that the City receives from the U.S. Department of Housing and Urban Development (HUD). As an entitlement community, the City receives an annual share of federal Community Development Block Grant (CDBG), and through the Butler County HOME Consortium, Home Investment Partnership (HOME) funds. In order to receive its CDBG entitlement, the City must submit this Consolidated Plan and First Year Annual Action Plan to HUD. The funds are intended to provide lower and moderate-income households with viable communities, including decent housing, a suitable living environment, and expanded economic opportunities. Eligible activities include community facilities and improvements, housing rehabilitation and preservation, development activities, public services, economic development, planning, and program administration.

The Consolidated Plan serves primarily as a planning document to guide the City’s community revitalization and development efforts particularly for low and moderate income households in the community. The document is developed in accordance with established HUD guidelines for public input and participation. A secondary use of the document is as an application for federal funds under HUD’s formula grant programs and the accompany strategy for how the City will impact the community using HUD funds and leveraged funds to accomplish the five-year objectives. The plan includes performance metrics as a basis for assessing performance over the life of the plan.

2. Summary of the objectives and outcomes identified in the Plan Needs Assessment Overview

The City has a number of priority needs which can be delineated into the two categories of (1) supports to help low-income families and (2) community revitalization activities.

Many of Middletown’s residents are economically challenged. The median household income in the City is $39,116, which is 74% percent of the state average of $52,407 and 62% of the national average of $63,179. Activities and programs that tackle issues of poverty and help households and families become more income-stable are a critical and high priority need in the community.

Community revitalization efforts are directly tied to the economic challenges of the community. Many of the community’s neighborhoods have aged without reinvestment. Housing has become challenging as older homes continue to deteriorate and many formerly owner-occupied dwellings have turned into rental
properties, many with absentee landlords. The condition of the housing market in Middletown has resulted in significant drops in property value making the tax revenue decrease and adding to the overall economic challenges in the community. A concentrated effort to maximize federal investment of CDBG and HOME through concentrated neighborhood revitalization is critical to improving the City’s overall health and well-being.

The City has commissioned and performed several significant data studies to inform its strategy moving forward. Distressed neighborhoods have been identified with a prioritization of place-driven strategies to improve overall conditions. Blight has been and continues to be strategically removed throughout the City, particularly in LMI census tracts. Code enforcement has worked to identify problem properties in LMI tracts and work with property owners to bring them up to code.

Other needs impacting LMI target neighborhoods were identified through these commissioned data studies, namely 1) distressed and dilapidated housing, 2) poor street conditions, and 3) lack of amenities and attractive neighborhood appeal. In addition, city-wide there are needs with regard to economic conditions of the community, namely 4) lack of qualified workforce 5) limited youth activities, 6) insufficient social services including mental health and substance use treatment. These six identified needs are included as priorities in the five-year consolidated plan. In addition, the City actively collaborates with other initiatives involving HUD partnerships through Butler Metropolitan Housing Authority, fair housing partner (Housing Opportunities Made Equal), and Continuum of Care for the homeless (Butler County Housing and Homeless Coalition). These partners address HUD priorities which include 7) addressing needs of homeless households, 8) ensuring there is appropriate housing for LMI households; and 9) fair housing activities. These three additional needs are included as priorities in the five-year consolidated plan.

The City will undertake the following activities to address the nine identified priority needs in the five-year consolidated plan.

1) Distressed and dilapidated housing: The City will use rehabilitation of owner-occupied housing as one way to address distressed and dilapidated housing. This activity will keep people in decent, safe, and affordable housing, especially low-income and elderly homeowners who are at high-risk for being displaced.

2) Poor street conditions: Public infrastructure, especially the condition of roads in LMI target neighborhoods, are a significant need and high priority.

3) Lack of amenities and attractive neighborhood appeal. The City has identified the neighborhood of Oakland as its priority LMI area for this comprehensive plan. Funds will be targeted to help address lack of amenities such as green space and create strong visual appeal through neighborhood beautification.

4) Lack of qualified work force. The City has a strong strategy to address issues of generational poverty and strengthen the economic core of the community. This strategy connects public and private resources with partner efforts to improve the local economy. Through the five-year Consolidated Plan the City will work specifically on efforts of workforce development to prepare those without employment, those who are underemployed or those not currently in the labor force to be prepared to fill the jobs available in the community.
5) Lack of youth activities. The City will continue activities to provide a safe haven for youth in the City. Through its partnership with Community Building Institute, the City will be able to continue its work to meet the activity needs of LMI youth.

6) Insufficient social services including mental health and substance use treatment. The City will continue to leverage established partnerships and actively support efforts to strengthen social services in the community.

7) Addressing needs of homeless households. The City’s homelessness strategy was developed in cooperation with the Butler County Housing and Homeless Coalition (BCHHC). The City has an appointed member on the Board and serves to cooperate with the balance of the county to support persons experiencing homelessness. The strategic priorities of BCHHC include advocating for individuals and families experiencing or facing homelessness; ensuring there is an adequate system of care for those experiencing homelessness; and supporting projects that enhance and improve the continuum of care for those experiencing homelessness in the community. The Coalition serves as the primary vehicle for public and private entities serving the homeless to work cooperatively to prevent homelessness, serve persons through a shelter system who are experiencing homelessness and responsibly rehouse persons into permanent, stable housing as quickly as possible.

8) Ensuring there is appropriate housing for LMI households: The City has significant numbers of affordable housing rental units in the community. The City will continue to draw on its affordable housing partners such as Butler Metropolitan Housing, Butler County Housing and Homeless Coalition and Neighborhood Housing Services to ensure LMI renter households have decent, safe and sanitary housing options. In addition, the City will continue to offer down payment assistance for LMI homeowners and work through key partners to provide LMI homeowner repairs and rehabilitation.

9) Fair housing activities: Fair housing continues to be a priority for the City, specifically education and responses to fair housing complaints. The activities will be addressed through the partnership with HOME.

3. Evaluation of past performance

The City has strong outcomes as a result of its part performance. Blight has been tackled and significantly decreased over the past five years. Strong enforcement of local code has significantly decreased the number of repeat violations and nuisance properties. Activities around public services, especially those involving youth have been effective. Fair housing awareness and education are ably met through the HOME partnership and complaints are investigated and appropriately addressed. Low income homeowners have received help to correct code violations and many have received help to rehab their homes. New homeowners have become part of the fabric of the community as a result of down payment assistance. The City has increased its involvement with local initiatives that contribute to the health and well-being of LMI households including Butler County Land Bank and the Butler County Housing and Homeless Coalition. The performance metrics and extent of the City’s accomplishments are detailed in the City’s CAPER.

4. Summary of citizen participation process and consultation process

As noted in PR-10, Consultation, well publicized public hearings were held on two occasions – March 3, 2020 and April 21, 2020 at City Hall, One Donham Plaza, Middletown, Ohio. These sessions were part of a
strategic effort to maximize participation by the public to the greatest extent possible. Public hearings were advertised in the local newspaper, through letters sent to local community organization, in the Middletonian magazine publication and on the city’s website.

The City conducted ten focus group sessions with stakeholders and representatives from community service organizations to solicit feedback. Stakeholders included representatives from educational institutions, nonprofit sector, business community and community residents. The City also published an article in the Middletonian magazine inviting the public to provide feedback and participate in the planning process. Feedback received from these opportunities informed the development of this plan. The City also made a community survey available to obtain additional public input.

The City invited community organizations to participate in the planning process by sharing their vision, initiatives and priority projects through the provision of a proposal process. Nine organizations submitted projects for consideration.

5. **Summary of public comments**

The City received significant input from local community organizations and stakeholders through the planning process. Comments were collected compiled from individual conversations, focus groups and public meetings and compiled through respective reports.

6. **Summary of comments or views not accepted and the reasons for not accepting them.**

No additional comments were received during the 30-day public review period.
The Process

PR-05 Lead & Responsible Agencies 24 CFR 91.200(b)

1. Describe agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

<table>
<thead>
<tr>
<th>Agency Role</th>
<th>Name</th>
<th>Department/Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead Agency</td>
<td>MIDDLETOWN</td>
<td>Department of Administrative Services</td>
</tr>
</tbody>
</table>

Table 1 – Responsible Agencies

Narrative

The Department of Administrative Services is the lead agency for the completion of the Consolidated Plan. The City contracts with Community Development Professionals, a professional consultancy firm, to administer the day-to-day operations of the federal funds administered by the department and to lead efforts to develop the Consolidated Plan. The Annual Action Plans identify the specific activities the City undertakes to accomplish its objectives and reach intended outcomes identified in the plan. The City partners with subrecipients and other city departments, including Department of Financial Services, Building Inspections, Code Enforcement, Parks and Recreation, Capital Improvement Program, and Planning and Zoning, to accomplish the activities outlined in the plan. The Department of Administrative Services works under the direction of City Council.

Consolidated Plan Public Contact Information

Mrs. Susan Cohen, Director of Administrative Services
City of Middletown
One Donham Plaza
Middletown, Ohio 45042

Tel: 513-425-7950
Fax: 513-425-7921
e-mail: susanc@cityofmiddletown.org
PR-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

The City of Middletown is committed to addressing the community's priority needs in the most efficient and effective way possible. To that end the City partners with a variety of public and private agencies and organizations that enhance the work of the City in the areas of social service, homeless activities and programs, economic development, housing and healthcare.

Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

The City actively pursues opportunity to coordinate with initiatives, organizations and providers that impact the City of Middletown and its residents. The City participates in the Butler County Housing and Homeless Coalition which is comprised of both housing providers and agencies involved in provision of service for households experiencing homelessness. A staff from Department of Administrative Services serves as an ex-officio member of the Board and attends monthly meetings of the board and monthly meetings of the general membership. Members of the coalition include cross-system representatives from housing, social services, behavioral health, and community action, including publicly-funded organizations that include Mental Health and Recovery Services Board, Butler Metropolitan Housing Authority, Butler County Community Development, YWCA, Serve City, and Hope House.

In addition, the City works with public health officials, social service agencies, business districts, educational institutions, including Middletown Public School and Miami University, to be keep apprised of needs and coordinate efforts to meet needs in the community.

For the development of this Consolidated Plan, the City worked through focus groups sessions, community conversations, and public hearings to engage with providers, identify needs and establish priorities.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness

The Balance of State Continuum of Care (BOSCOC) is comprised of the 80 rural counties in Ohio, covering all non-entitlement communities in the state. Butler County is the largest of the counties included in BOS and has the BOSCOC’s two largest congregate shelters – Serve City which houses 52 people and Hope House which houses 40. Butler County Community Development is the grantee of HUD CoC funding for permanent supportive housing which houses 70 chronically homeless individuals and families. The Ohio Development Services Agency and the Coalition on Homelessness and Housing in Ohio (COHHIO) serve as the lead agencies for the BOSCOC. To better facilitate local coordination and planning efforts, BOSCOC established regional Continua of Care (CoC). These local CoCs address community-level planning, identify service gaps, and plan and prioritize new and renewed homeless assistance projects. Butler County is a member of Region 14 under BOSCOC, which is comprised of Clermont, Warren and Butler Counties. Butler County also has a private 501c3 nonprofit, Butler County Housing and Homeless Coalition, which oversees initiatives and programs around homeless services within the county. The City is actively involved with this Coalition and its members.
All HUD-funded providers report into the State of Ohio’s Homeless Management Information System. The community uses this system to inform its efforts to understand the extent of homeless, identify needs and review impact of various homeless programs and services.
Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards and evaluate outcomes, and develop funding, policies and procedures for the administration of HMIS

COHHIO has established priorities for the Balance of State and the performance standards by which all HUD-funded programs are measured. Every year, the U.S. Department of Housing and Urban Development (HUD) provides resources to communities around the country through its Continuum of Care Homeless Assistance Programs. ODSA and COHHIO coordinate the process and prepare the application for funding for the BOSCOC. To this end, a regional board as well as BCHHC engage with individual nonprofit partners to outline a strategy for local services and programs.

BOSCOC Advisory Board
The Advisory Board is the primary planning body for the BOSCOC. Its members are responsible for making recommendations on policy decisions and the work of the Steering Committee. One person from Butler County serves on this Board. In addition, the Advisory Board reviews and approves the process for evaluation of projects and completion of the Continuum of Care application for HUD funding. Members include housing and homeless service providers, funders, and advocates from around the state. Final approval for all Advisory Committee decisions comes from the Office Chief, Office of Housing and Community Partnerships, ODSA and the Director for Community Development, ODSA.

BOSCOC Steering Committee
The Steering Committee is responsible for leading and engaging in most of the work related to maintenance of the Continuum of Care and the completion and submission of the annual application for federal funding through HUD’s Continuum of Care Homeless Assistance Programs. Committee members also develop the application process plan, review and score HUD applications submitted by BOSCOC members, and engage in long-term CoC strategic planning. Members of the committee include staff of ODSA, COHHIO, and the Ohio Department of Mental Health (ODMH).

BOSCOC Outcomes and Performance Committee
The Outcomes and Performance Committee is responsible for developing and implementing plans for the monitoring of BOSCOC homeless programs, with an emphasis on outcomes. Committee members engage in the development of improvement plans with programs, and provide guidance to the Steering and Advisory Committees regarding renewal programs/outcomes for the CoC application process.

BOSCOC HMIS Core Group
The HMIS Core Group coordinates statewide HMIS training and data collection for all BOSCOC homeless providers receiving state/federal funding for emergency shelter, transitional housing, and permanent supportive housing (PSH), as well as organizations opting to participate in the BOSCOC HMIS.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdictions consultations with housing, social service agencies and other entities

More than 2,000 individuals representing residents, businesses, community organizations and city personnel were involved in identifying community needs and prioritizing those needs for inclusion in this Consolidated Plan. The city integrated planning initiatives across the service area to ensure a comprehensive and consolidated process for the development of this five-year plan.
The participation process for the Consolidated Plan included a series of community meetings; public notices; a 30-day public comment period; public hearings; a community survey, made available on the City’s website; and consultation with nonprofits, City staff, elected officials, and housing providers. In addition, a number of plans have been integrated into the Consolidated Plan, all of which also sought community input to prioritize needs.

**Identify any Agency Types not consulted and provide rationale for not consulting**

To the best of its ability, the City has been in contact with all known agencies and organizations involved in activities that are relevant to CDBG, HOME, and ESG activities and programs.

**Other local/regional/state/federal planning efforts considered when preparing the Plan**

<table>
<thead>
<tr>
<th>Name of Plan</th>
<th>Lead Organization</th>
<th>How do the goals of your Strategic Plan overlap with the goals of each plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Middletown Master Plan</td>
<td>City Planning Department</td>
<td>Master Plan Housing Element reflects housing priorities and objectives</td>
</tr>
<tr>
<td>What If Middletown</td>
<td>Miami University/CBI</td>
<td>Priority needs of community are consistent</td>
</tr>
<tr>
<td>Chamber of Commerce Focus Areas</td>
<td>Chamber of Commerce</td>
<td>Informed needs of workforce development and business community</td>
</tr>
<tr>
<td>City of Middletown Housing Policy</td>
<td>City of Middletown</td>
<td>Informed housing priorities of ConPlan</td>
</tr>
<tr>
<td>Danter Housing Study</td>
<td></td>
<td>Informed housing priorities of ConPlan</td>
</tr>
<tr>
<td>United Way bold goals</td>
<td>United Way of Greater Cincinnati</td>
<td>Informed needs and priorities of LMI households</td>
</tr>
<tr>
<td>BCHHC CoC Plan</td>
<td>Butler County Housing and Homeless Coalition</td>
<td>Informed housing and homeless priorities of ConPlan</td>
</tr>
</tbody>
</table>

**Table 3 – Other local / regional / federal planning efforts**

Describe cooperation and coordination with other public entities, including the State and any adjacent units of general local government, in the implementation of the Consolidated Plan (91.215(I))

**Narrative (optional):**

As noted above, the City coordinates with a range of public entities, including the Planning, Health and Economic Development offices of Butler County and a number of State agencies in the development and execution of a range of programs and activities.
PR-15 Citizen Participation

1. Summary of citizen participation process/Efforts made to broaden citizen participation
Summarize citizen participation process and how it impacted goal-setting

The City considers the involvement of its low- and moderate-income residents to be essential to the development and implementation of its Five-Year Consolidated Plan and Annual Action Plans.

As noted in PR-10, Consultation, well publicized public hearings were held on two occasions – March 3, 2020 and April 20, 2020 at City Hall, One Donham Plaza, Middletown, Ohio. These sessions were part of a strategic effort to maximize participation by the public to the greatest extent possible. Public hearings were advertised in the local newspaper, through letters sent to local community organization, in the Middletonian magazine publication and on the city’s website.

The City conducted ten focus group sessions with stakeholders and representatives from community service organizations to solicit feedback. Stakeholders included representatives from educational institutions, nonprofit sector, business community and community residents. The City also published an article in the Middletonian magazine inviting the public to provide feedback and participate in the planning process. Feedback received from these opportunities informed the development of this plan. The City also made a community survey available to obtain additional public input.

The City invited community organizations to participate in the planning process by sharing their vision, initiatives and priority projects through the provision of a proposal process. Nine organizations submitted projects for consideration.

The City ensures that public hearings are held at times and locations convenient to potential and actual beneficiaries and with accommodations for persons with disabilities. The city makes accommodations for those individuals in need of special assistance.

Needs Assessment

NA-05 Overview

Needs Assessment Overview
The City has a number of priority needs which can be delineated into the two categories of (1) supports for low/moderate-income families and (2) community revitalization activities.

Many of Middletown’s residents are economically challenged. The median household income in the City is $39,116, which is 74% percent of the state average of $52,407 and 62% of the national average of $63,179. Activities and programs that tackle issues of poverty and help households and families become more income-stable are a critical and high priority need in the community.

Community revitalization efforts are directly tied to the economic challenges of the community. Many of the community’s neighborhoods have aged without reinvestment. Housing has become challenging as older homes continue to deteriorate and many formerly owner-occupied dwellings have turned into rental properties, many with absentee landlords. The condition of the housing market in Middletown has resulted in significant drops in property value making the tax revenue decrease and adding to the overall economic challenges in the community. A concentrated effort to maximize federal investment of
CDBG and HOME through concentrated neighborhood revitalization is critical to improving the City’s overall health and well-being.

The City has commissioned and performed several significant data studies to inform its strategy moving forward. Distressed neighborhoods have been identified with a prioritization of place-driven strategies to improve overall conditions. Blight has been and continues to be strategically removed throughout the City, particularly in LMI census tracts. Code enforcement has worked to identify problem properties in LMI tracts and work with property owners to bring them up to code.

Other needs were identified through these data studies that impact all LMI target neighborhoods, namely 1) distressed and dilapidated housing, 2) poor street conditions, and 3) lack of amenities and attractive neighborhood appeal. In addition, city-wide there are needs with regard to economic conditions of the community, namely 1) lack of qualified workforce 2) limited youth activities, 3) insufficient social services including mental health and substance use treatment. These identified needs are included as priorities in the five-year consolidated plan. In addition, the City actively collaborates with other initiatives involving HUD partnerships through Butler Metropolitan Housing Authority, fair housing partner (Housing Opportunities Made Equal), and Continuum of Care for the homeless (Butler County Housing and Homeless Coalition). These partners address HUD priorities which include 1) addressing needs of homeless households, 2) ensuring there is appropriate housing for LMI households; and 3) fair housing activities. Activities related to all nine priorities delineated here are included in the Consolidated Plan.

The City has a strong commitment to address issues of generational poverty and strengthen the economic core of the community. This strategy connects public and private resources with partner efforts to improve the local economy. Through the five-year Consolidated Plan, the City will work specifically on efforts of workforce development to prepare those without employment, those who are underemployed or those not currently in the labor force to be prepared to fill the jobs available in the community. In addition, the City will focus efforts on strengthening social service needs in the community, especially in the areas of youth services and social services. All efforts are to meet needs in LMI areas and eliminate barriers to economic and community health.

**Describe the number and type of single person households in need of housing assistance.**

According to 2018 American Community Survey (ACS), Middletown has the second highest number of single person households in Ohio at 56% -- 5 points above Ohio’s percentage of 51%. Of the 19,776 households living in the city, 11,075 are single persons.

ACS reports 25.4% of Middletown residents live in poverty. Applying this percentage to the number of single person households, an estimated 2,800 households live at or below poverty and likely in need of housing assistance.

**Estimate the number and type of families in need of housing assistance who are disabled or victims of domestic violence, dating violence, sexual assault and stalking.**

ACS figures indicate that there are 48,861 persons residing in Middletown, 17.2% of which, or 8,404, have a disability. This is slightly lower than 2010 data suggests but still 5 points higher than the national average. Figures broken down by age categories show that the percentages of persons with
a disability are significantly higher than U.S. figures, in each of the categories. Persons with disability are often on fixed incomes and are far more likely to be in need of financial assistance including housing.

Domestic violence rates are difficult to ascertain as numbers are underreported and shelters are not obligated to report their data publicly. The only domestic violence shelter in the community at YWCA Hamilton reports they served more than 300 victims of domestic violence, stalking and sexual assault in 2019 and numbers are growing. Nearly 100% of these victims of violence are extremely low income and in need of housing assistance.

**What are the most common housing problems?**

The most common housing problem in Middletown is cost-burden, that is paying more than 30% of income toward occupancy. Limited financial resources prevent LMI households from meeting the threshold of paying 30% of income toward occupancy costs. 1,685 renter households with income at or below 30% AMI have a cost burden greater than 50 percent. 1,045 renter households with income at or below 50% of AMI have a cost burden greater than 30%. 1,290 owner-occupied households have a cost burden greater than 50 percent and 1,740 owner-occupied households have a cost burden greater than 30 percent.

**Are any populations/household types more affected than others by these problems?**

There is a direct correlation between cost burden and household income. Households at or below 30% of AMI (very low-income) are most impacted by cost burden. In general, many of the units available for rent in Middletown are at or below fair market value; however, the extreme poverty of many of the households in the City creates a cost burden for these families. 44.7 percent of the renter-occupied households with a severe cost burden are extremely low-income. 46.4 percent of owner-occupied households with severe cost burden are elderly households at or below 30% AMI.

**Describe the characteristics and needs of Low-income individuals and families with children**

(especially extremely low-income) who are currently housed but are at imminent risk of either residing in shelters or becoming unsheltered 91.205(c)/91.305(c)). Also discuss the needs of formerly homeless families and individuals who are receiving rapid re-housing assistance and are nearing the termination of that assistance

Butler County Success works in the schools to identify and assist families at imminent risk of homelessness. Emergency Money Fund is a local resource that works with Butler County Success to prevent homelessness. HCRP funding through ODSA also provides limited assistance for prevention and rapid rehousing to move homeless families into affordable and safe housing as quickly as possible.

The average homeless family in Butler County is a single, female-head-of household with 2 school-aged children. Most families who are homeless have significant barriers to housing stability resulting from unemployment or underemployment and lack of support system to fill in the gaps for childcare, unexpected expense and transportation needs. Wraparound services that include livable wage employment, affordable child care, affordable housing, transportation, access to healthcare, life skills training, and additional education and/or training, including GED programs, and English as a Second Language, are valuable, if not necessary, to lift people out of poverty and maintain housing stability. The
City is working though this Consolidated Plan on creating impactful strategies with community partners like BCHHC and Community Building Institute to ensure these wraparound services exist and to minimize the number of families who enter the homeless system.

If a jurisdiction provides estimates of the at-risk population(s), it should also include a description of the operational definition of the at-risk group and the methodology used to generate the estimates.

To the greatest extent possible, actual numbers for at-risk populations are provided.

**Specify particular housing characteristics that have been linked with instability and an increased risk of homelessness**

Lack of habitable housing, especially for extremely low- and very low-income renter households, is a principal risk linked to housing instability in Middletown. Poor housing maintenance by absentee landlords contributes to this issue. Another issue is the aging housing among low income owner-occupied households. Funds to rehabilitate and/or correct code violations is a factor in maintaining habitability. The consolidated plan includes provisions to address both of these issues.
Disproportionately Greater Need: Housing Problems – 91.205 (b)(2)

Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

Introduction

HUD identifies four common concerns for housing units: (1) overcrowding, (2) lack of complete kitchen, (3) lack of complete plumbing, and (4) cost burden.

Discussion

Often there is a direct correlation between income and identified housing problems, i.e. the lower the income the higher percentage of having one or more of the identified housing issues. When reviewing housing problems among different ethnic and racial groups, Middletown’s data does not indicate disparities among racial demographics. The Consolidated Plan outlines plans to address issues directly related to HUD-defined housing problems, specifically owner-occupied rehab and repair. In addition, the cost burden issue will be addressed through the provision of services directed at supports to help low-income families.

NA-25 Disproportionately Greater Need: Housing Cost Burdens – 91.205 (b)(2) Assess the need of any racial or ethnic group that has disproportionately greater need in comparison to the needs of that category of need as a whole.

Discussion:

Housing cost burden does not show disparity among racial groups.

NA-30 Disproportionately Greater Need: Discussion – 91.205(b)(2)

Are there any income categories in which a racial or ethnic group has disproportionately greater need than the needs of that income category as a whole?

There is a higher percentage of African-Americans at or below 50% AMI than the number of African-Americans in the City of Middletown.

Are any of those racial or ethnic groups located in specific areas or neighborhoods in your community?

There are higher concentrations of racial and ethnic groups, specifically African-American/black and Hispanic in the following census tracts: Census Tracts 013000, 013100, and 014000.
NA-35 Public Housing – 91.205(b)

Introduction

Butler Metropolitan Housing Authority operates the majority of public housing in the City of Middletown and administers the Section 8 Housing Choice Voucher (HCV) Program. The City has a strong and cooperative working relationship with BMHA to address issues of housing and to focus on community issues such as crime and code enforcement. Butler Metropolitan Housing Authority operates with a board appointed by the Butler County Commissioners. A small number of vouchers in Middletown are administered by Warren County Metropolitan Housing Authority.

Butler Metropolitan Housing Authority has a total of 594 units of public housing in Middletown. Of that number there are 17 handicap-accessible units. More than 90 percent of these units are in the 1, 2 and 3-bedroom range with a significant lack of studio/efficiency units. The Warren Metropolitan Housing Authority manages the Brookview Apartments, a complex of one-, two- and three-bedroom units in Middletown.

Section 504 Needs Assessment: Describe the needs of public housing tenants and applicants on the waiting list for accessible units:

434 disabled families are living in public housing in Middletown and 1,464 families requesting accessibility features.

Most immediate needs of residents of Public Housing and Housing Choice voucher holders

The needs of residents of public housing are consistent with the overall needs of LMI families in Middletown. There are high numbers of public housing residents that need access to wraparound services necessary to pull them out of poverty. The City’s emphasis on workforce development and providing social services that will enable families to become economically independent and stable will be made available to residents of public housing.

A second issue is continuing to ensure that those needing accessible units are able to access those units. Particularly with Housing Choice Vouchers, the City’s partnerships with People Working Cooperatively and SELF may be able to assist HCV recipients to ensure ramps and accessibility features are provided.

How do these needs compare to the housing needs of the population at large.

These needs of BMHA clients are similar to other LMI household in the community. The City will work with BMHA to ensure access to services provided through the City’s CDBG resources are available to these families and households.
Needs Assessment – 91.205(c)

Introduction:

Ensuring the needs of families and individuals experiencing homelessness are addressed is a high priority for the City. The City has strong involvement and cooperative relationships with providers in the community that address concerns of homelessness.

The City has an ex-officio seat on the board of the Butler County Housing and Homeless Coalition. This ensures the City remains abreast of concerns and challenges in the community, and specifically those concerns the City can help meet. More than 30 partner agencies are involved in the Coalition to meet the needs of families across the continuum -- from prevention through housing stability. Members of the coalition provide food, mental health services, housing, case management, substance use treatment and employment services.

Less than 20 unsheltered persons were identified during the most recent point in time county in Middletown. This number is largely considered to underrepresent the numbers in the community. There are two year-round homeless shelters in Middletown. Center of Hope houses up to 25 families with its 40 beds. Hope House (for men) houses up to 40 individuals. Occupancy remains nearly full. SHALOM is a seasonal shelter that average 20 people per night during the winter months. The City of Middletown works through the Butler County Housing and Homeless Coalition to provide outreach and appropriate social services to assist the homeless.

Butler County administers 70 Permanent Supportive Housing Vouchers, about half of whom reside in Middletown. Hope House also recently completed a new permanent supportive housing project that can house up to 25 additional people.

The three factors that most contribute to homelessness include lack of economic opportunity, untreated mental health and substance use. Other factors monitored through HUD’s point in time count include domestic violence and veterans.

Estimate the number and type of families in need of housing assistance for families with children and the families of veterans.

Butler County Success works with families at risk or experiencing homelessness through the school districts. They estimate the need to be close to 1200 families across Middletown. The point in time count shows a much smaller need in the community. Center of Hope houses up to 25 families and ably serves the need in the community. Family Promise works across the county and is available to Middletown families as well. They have the capacity to serve up to 5 families.

Veterans are approximately 10% of the sheltered homeless in the community. The Veterans Services Commission is part of the Butler County Housing and Homeless Coalition and serves the needs of veterans including connecting them with Butler County Veterans Services Commission and Veterans Administration and other resources available to them throughout the region.

There is no disparity among racial or ethnic lines with regard to homeless residents. The demographics of homeless individuals and families are consistent with demographics of the general population across the county.

Describe the Nature and Extent of Unsheltered and Sheltered Homelessness.

The recent point in time (PIT) count conducted on January 22, 2019, is reflected in the table below:

<table>
<thead>
<tr>
<th></th>
<th>PIT Number</th>
<th>Current Inventory</th>
<th>Unmet Need/Gap*</th>
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<tbody>
<tr>
<td>Homeless Individuals</td>
<td>306</td>
<td>366 (beds)</td>
<td>n/a</td>
</tr>
<tr>
<td>Homeless Households</td>
<td>223</td>
<td>284 (units)</td>
<td>n/a</td>
</tr>
<tr>
<td>TOTAL</td>
<td>306</td>
<td>386</td>
<td>n/a</td>
</tr>
</tbody>
</table>

While the annual point in time and inventory assessment seem to indicate Butler County has a sufficient number of beds and units for individuals and families experiencing homelessness, the process by which data is gathered for this HUD-mandated annual check point does not accurately represent the extent of the homelessness issue.

Households who do not meet HUD’s definition of homeless including doubled up families and “couch surfers” are impacting the continuum of care and seeking services from providers but are not represented in the point-in-time count. Data indicates that greater numbers of homeless are incarcerated in the winter as well as staying with friends and families to avoid the elements. Individuals represented in this point-in-time count are limited to individuals and families in the shelter system on the specific date of the count and/or those found unsheltered in the county. Some effort is made to visit food pantries and meal centers during the count to capture anyone else who might need HUD’s definition of homeless, but these numbers are generally limited.
NA-45 Non-Homeless Special Needs Assessment - 91.205 (b,d)  

Introduction:

Certain population groups require supportive services and/or supportive housing, either on a permanent basis, or on a temporary basis. Many special needs populations are very low-income households (below 50% of Median Family Income) because they are not able to work or can only work on a part-time basis. Special population groups include the elderly and frail elderly, the physically and developmentally disabled, severely mentally ill persons, and those with substance abuse issues.

Many disabled individuals rely on Supplemental Security Income (SSI) for financial support. SSI provides income support to persons 65 years and over, the blind, and also the disabled. Since many disabled persons have limited incomes, finding affordable and accessible housing is often a serious challenge. Even when new affordable rental housing is developed, the rental rates for the housing units are often too high for many disabled persons.

In addition, these persons often require various types of special assistance, program activities to enhance their quality of life, and respite care for their caregivers. Support for municipal programs as well as assistance to not-for-profit organizations is necessary for the implementation of these types of activities.

HUD has identified a number of special needs populations. However, detailed information on some special needs populations is often not available from census or HUD data sources. The City has used information from reliable sources or calculations from entities such as ARC (for the developmentally disabled), the National Institutes of Mental Health, or the National Institute of Alcohol and Alcohol Abuse to estimate the numbers of persons in those categories. Where possible, figures from reliable local sources are used to support these analyses.

While the City’s resources alone are not sufficient to address the needs of all these groups, the City is committed to continue its work with other jurisdictions to support efforts to provide needed resources.

Describe the characteristics of special needs populations in your community. What are the housing and supportive service needs of these populations and how are these needs determined?

Discussion:

The Elderly and Frail Elderly
The elderly, 65 and over, constituted 15.2 percent of the total population in City of Middletown according to 2018 ACS, and there are an estimated 3,637 frail elderly (75 and older) in Middletown.

33% of seniors living in Middletown live alone. 6% of Middletown senior households have an annual income of less than $10k and 28% less than $20k. 19% of Middletown, OH residents 60 and over received food stamps in the last year. There are 1,033 working seniors in Middletown and 22% of the seniors in Middletown are veterans. The needs of the elderly vary greatly. Many, especially in very low-income households, face housing difficulties based upon their particular housing needs (size of units, and types of fixtures and amenities), and many are cost burdened. Middletown has a robust senior center (Community Connections) that offers strong services to the elderly in the community.
Persons with Disabilities
The 2018 ACS data indicates that 17.2 percent of the City’s population - 8,404 persons have a disability. This percentage is well above the national figure of 12.1 percent.

The Developmentally Disabled
The Association for Retarded Citizens (ARC) has a strong presence in Butler County. They indicate that approximately 2.5% of the population would meet the definition of developmentally disabled. By this calculation, there are an estimated 1,200 developmentally disabled persons in Middletown.

Most DD professionals champion independent living for DD residents, preferring developmentally disabled residents to be integrated into mainstream housing in the community. There are several other supportive housing options available as well through private practitioners such as ECI including supervised apartments, supported living, skilled development homes, and family care homes. Safe Haven Farms is another option for developmentally disabled adults that desire to live in a congregate setting.

The Physically Disabled
The number of persons under the age of 18 with disabilities is 1,015, while the number of persons aged 18 to 64 with disabilities is 5,453, or 18.6 percent of the persons in that age group. The number of persons 65 and over with disabilities is 2,847 or 39.7 percent of that age group. These figures, based upon the Census Bureau definition of disability, include a wide range of disabilities and a precise figure for persons with physical disabilities is difficult to determine.

Persons with physical disabilities may require assistance with daily living, and additional requirements for their housing including, for example, special types of kitchen and bathroom fixtures and special fire alarms.

Persons with Alcohol and Drug Dependencies
It is difficult to obtain information about the exact number of persons with drug and alcohol dependencies. All data indicates that the Opioid epidemic has significantly and negatively impacted the City of Middletown and the county as a whole. The Ohio Addiction Recovery Center reports that there were a total of 493 overdoses in Middletown in 2018 linked to heroin which resulted in 53 deaths. In 2017 there were reported 966 heroin overdoses in 2017, 77 of which were fatal.

The Center on Addiction, a national advocacy center, reports 1 in 7 adults has a substance use disorder. In Middletown that would indicate approximately 5,300 adults have a substance use issue.

Discuss the size and characteristics of the population with HIV/AIDS and their families within the Eligible Metropolitan Statistical Area:

The US Center for Disease Control estimates that 0.3 percent of the US population currently lives with HIV/AIDS, and that 15.8 percent of those infected are not aware of their infection. Applying the 0.3 percent figure to Middletown would indicate that 146 persons in Middletown are affected.

Figures from the Ohio Department of Health for 2018 indicate that there were 236 current HIV positive cases in Butler County. Figures specifically for Middletown are not available.

Persons with HIV/AIDS face a number of housing barriers, including discrimination, housing availability,
transportation and housing affordability. The co-incidence of other special needs problems with HIV/AIDS can make some individuals even more challenging to house. Caracole, an organization based in Hamilton County, serves the Butler County community and provides special consideration for housing needs for those affected by HIV/AIDS.
NA-50 Non-Housing Community Development Needs – 91.215 (f)

Describe the jurisdiction’s need for Public Facilities:

The Department of Public Works and Utilities and the City Administration are aware of the need for and importance of maintaining, repairing and upgrading the City’s public facilities and infrastructure to preserve the community’s general well-being. Public facilities and infrastructure are critical to maintain and preserve commercial and residential areas and attract new development.

The City will prioritize public infrastructure in its Oakland neighborhood initially and then work within other LMI areas as funding permits. The City recognizes its role to maintain an appropriate standard for roads, sidewalks, sewers, bridges, parks and public buildings.

How were these needs determined?

Community development needs and priorities were identified in the course of preparing this Consolidated Plan through the input of community leaders, citizen participation, and requests and ideas from a wide range of service providers and public agencies. More than five separate planning initiatives informed this plan in addition to specific activities for development of the Consolidated Plan. Input was encouraged through series of meetings, focus groups and public hearings described in the public participation section of this Plan. The Department of Administrative Services worked with City Council and City Departments to identify a plan for use of funds and prioritize activities set forth in this plan.

The Department of Administrative Services works directly with various County and State agencies that often raise issues and concerns or make requests about improvements or conditions in the low/mod neighborhoods. The funding and project selection process reflects the input and weighing of needs and requests in light of the overall objective and availability of funds.

Describe the jurisdiction’s need for Public Improvements:

The need for public improvement is larger than what can be accomplished through CDBG funds. The City has a comprehensive master plan that complements the Consolidated Plan to ensure there is specific, intentional improvement of public infrastructure. The Consolidated Plan outlines a strategy for improving public facilities that have been prioritized in LMI communities. Additional efforts of the City include a focus on park and recreation facilities, street resurfacing and sidewalks.

How were these needs determined?

The City has undertaken a number of initiatives over the past few years. Needs that were identified through community meetings, surveys, focus groups and public hearings have been incorporated into this process for developing the Consolidated Plan.

Describe the jurisdiction’s need for Public Services:

There are three areas that have been identified as priority needs under the Public Service Category: workforce development, youth centers and social service activities. The City strives to improve life for low- and moderate-income residents through its allocation of CDBG funds. In addition the City partners
with nonprofits and community organizations to support their work for the benefit of Middletown residents.

Middletown has more than 25 nonprofits who provide direct service to the City of Middletown residents. Nonprofits are involved in quality of life activities such as the arts and recreation. Others are involved in filling basic needs of food, clothing and shelter. The strong nonprofit sector ably meets the needs of the community but there are increasing demands for limited resources. The City continues to seek ways in which we can support the work of the nonprofit sector and come alongside their efforts to improve the lives of Middletown’s residents.

Housing Market Analysis

MA-05 Overview

Housing Market Analysis Overview:

In 2017 Middletown commissioned a Housing Study to delineate the condition of housing across the City. Results from this comprehensive and thorough study have been integrated into this consolidated plan as appropriate. Middletown has an abundance of housing for first-time homebuyers. Many of these units are in good condition and there is a healthy real estate market for first time homebuyers. There is also a fair number of housing units that have fallen into disrepair. These housing units are often owned by LMI households, many of whom are elderly residents or second-generation homeowners who inherited the homes from the original homeowners. Lack of financial means has often led to poor compliance with building codes and homes falling into disrepair. In addition, vacant and abandoned buildings are seen in many neighborhoods. The City has absentee property owners who have left properties vacant and let them deteriorate. Many of the City’s low-income renters are forced to pay more for the limited supply of rental units, a substantial portion of which are older and sometimes in deteriorating condition.

Middletown has lost significant industry over the last two decades and many livable wage jobs have moved out of the city. Income levels for jobs that remain have been stagnant over the past decade, so that even those working in “good” jobs are losing ground financially. The rent figures continue to increase as the population grows and the supply of units remains stable. At the same time, demands for increased down payment and stricter lending criteria keep many households from purchasing homes, which also increases the pressure on the rental market.
MA-10 Number of Housing Units – 91.210(a)&(b)(2)

Introduction

A basic premise of all housing markets is that there should be a spectrum of housing choices and opportunities for residents. This concept recognizes that housing choice and needs differ in most communities because of factors such as employment mix, household income, the age of the population, proximity to employment, and personal preference. Local housing markets and labor markets are linked to one another, and local housing markets provide choices and opportunities for current and future workers.

All residential properties by number of units

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-unit detached structure</td>
<td>14,847</td>
<td>65%</td>
</tr>
<tr>
<td>1-unit, attached structure</td>
<td>1,827</td>
<td>4%</td>
</tr>
<tr>
<td>2-4 units</td>
<td>2,515</td>
<td>11%</td>
</tr>
<tr>
<td>5-19 units</td>
<td>2,512</td>
<td>11%</td>
</tr>
<tr>
<td>20 or more units</td>
<td>685</td>
<td>3%</td>
</tr>
<tr>
<td>Mobile Home, boat, RV, van, etc</td>
<td>456</td>
<td>2%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>22,842</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Data Source: 2018 ACS

Describe the number and targeting (income level/type of family served) of units assisted with federal, state, and local programs.

The City has been consistent in its housing objectives over the years: 1) provide property rehabilitation assistance, 2) provide opportunities for additional ownership, 3) to demolish abandoned, unsafe, and deteriorate structures and 4) expand the supply of affordable housing in good condition that meets the needs of the City’s diverse households, family structures, and income levels. This includes 4,280 extremely low-income and 3,110 very low-income households in the City as well as the 1,464 HCV and the City’s public housing households.

For purposes of the Consolidated Plan moving forward, the City will continue its commitment to increase the condition of homes available and provide opportunity for new homeownership. The City is looking to focus many of its housing efforts on specific LMI neighborhoods, starting with Oakland.
Provide an assessment of units expected to be lost from the affordable housing inventory for any reason, such as expiration of Section 8 contracts.

The City does not anticipate losing any affordable housing units.

Does the availability of housing units meet the needs of the population?

Yes. The City is working to provide opportunities for households who increase their economic stability to have additional housing options in the community.

Describe the need for specific types of housing:

Discussion

The most pressing housing need is not related to the number or types of housing units. The need is for better maintained affordable rental units and the maintenance and rehabilitation of owner-occupied units.

The Area Median Family Income data from HUD shows that almost sixty percent (59.7%) of Middletown households are in the three lowest HUD income categories, and almost one-third of that number are in the extremely low-income category. This amounts to over 7,000 households at or very close to the poverty level.

The HUD data show that the greatest identified housing problem in Middletown is cost burden. The problem is most severe among extremely low-income renters, where there are 2,095 households with a cost burden or severe cost burden.

MA-15 Housing Market Analysis: Cost of Housing - 91.210(a)

Introduction

A basic premise of a strong housing market is to ensure that there is a spectrum of housing choice and opportunity for residents. This housing choice and resident needs will vary because of employment mix, household incomes, age of the population, and personal preference. However, housing markets and labor markets are inextricably linked and the level of affordable housing demand is largely a function of job growth and retention. Employment growth in Middletown has remained steady and even slightly improved over the last few years. Workforce development and reintegrating people into the labor force is a significant need. Middletown is working to retain and expand existing firms, and spur economic growth from start-ups, spin-offs, and relocations. Concurrent with stabilizing and growing the local economy, the City is focusing on strengthening its housing market and expanding housing options across the income continuum.

2018 HUD’s Fair Market Rent (FMR) for a two-bedroom apartment in Butler County is $845. In order to afford this level of rent and utilities – without being cost-burdened, that is paying more than 30% of income on housing – a household must earn $2,816 monthly or $33,800 annually -- $16.25/hour.
The median income in Middletown in 2017 was $39,116 but LMI households, defined as being at or below 80% of AMI, are not earning enough to cover the costs without being cost burdened. Minimum wage in Ohio is $8.55/hr. To meet FMR, a head of household working minimum wage would need to work 76 hours/week to afford this unit. The result of cost-burdened households is families living in substandard structures, “doubling up” with other families and/or working more than one job just to afford fair market rent.

Table 31 – Monthly Rent

Is there sufficient housing for households at all income levels?

There are a sufficient number of affordable housing units and subsidized units in Middletown, but cost burden for LMI families is a challenge. The City is working through this Consolidated Plan to increase employability for LMI households.

Where the City faces housing sufficiency is in the mid-size homes. The Danter Housing Study confirms that starter homes are available and high-end dwellings are available but mid-range 3-4 bedroom homes are nearly non-existent in the City. The City is working with developers to ensure there is a strong balance of sufficient dwellings along the entire income continuum.

How is affordability of housing likely to change considering changes to home values and/or rents?

The City expects affordability to remain constant over the next five years. Middletown as a whole is an affordable community with sufficient housing choice at lower income levels. The City’s efforts through this Consolidated Plan with regard to affordability is to increase activities around workforce development, increase income of families and decrease the number of households that are cost-burdened.
How do HOME rents / Fair Market Rent compare to Area Median Rent? How might this impact your strategy to produce or preserve affordable housing?

The average rent in Middletown, Ohio for a 2-bedroom unit is $833/ month. This is just below the HUD Fair Market Rent for a two-bedroom unit which is $845. HOME low rent and high rent limits also equal $845. The City’s strategy to maintain good, quality affordable units is critical to being able to appropriately house households and families needing rents at or below fair market value.
MA-20 Housing Market Analysis: Condition of Housing – 91.210(a)

Introduction

The condition of many of the single-family units which have been converted from owner-occupied to rental housing is poor. As shown below in Table 33 over two-thirds of rental units were constructed before 1980 and nearly thirty percent of renter units were constructed before 1950. Many of these rentals are owned by absentee landlords. The City has been consistent in its efforts to enforce housing code violations.

Over 70 percent of owner-occupied units were constructed prior to 1980 and one-third of owner-occupied units were constructed before 1950. In the last couple of years the City has sought out developers to begin filling in the housing gap and undertake construction in strategic neighborhoods. Oakland has been identified by the City as the priority for development efforts – both new construction housing as well as rehab and neighborhood beautification.

Definitions

Substandard condition refers to a dwelling unit that does not meet acceptable conditions per the City's Building Code and is structurally in need of significant renovation or rehabilitation, or in worst cases, demolition/condemnation. Substandard condition but suitable for rehabilitation means a structure is in poor condition and may have one or more housing code violations, however it is financially and physically feasible to rehabilitate it and return it to a condition that satisfies City code. This definition does not include units that require only minor cosmetic work or maintenance work.

HUD has identified four housing problems, which are 1) overcrowding, 2) lacks complete kitchen, 3) lacks complete plumbing, or 4) cost burden. Overcrowding means that there is more than one person per room living in a housing unit. The lack of complete kitchen or lack of plumbing is self-apparent.

The U.S. Census estimates the total number of substandard units in a geographic area by calculating both owner- and renter-occupied units 1) lacking complete plumbing facilities, 2) lacking complete kitchen facilities, and 3) 1.01 or more persons per room (extent of housing overcrowding). The U.S. Census defines "complete plumbing facilities" to include: (1) hot and cold piped water; (2) a flush toilet; and (3) a bathtub or shower. All three facilities must be located in the housing unit.

Overcrowding is defined by HUD as 1.01 to 1.50 persons per room, while severe overcrowding is 1.51 or more persons per room. HUD data on the numbers of persons residing in housing units provides some insight into the potential for homelessness.

Another factor to consider when discussing the condition of housing stock is the age of the housing stock. For the purposes of this analysis, the City of Middletown defines any rental property located in a low income neighborhood older than 30 years as “older housing stock”.

City of Middletown, Ohio
Consolidated Plan 2020-2025
Need for Owner and Rental Rehabilitation

The City's aging housing stock requires significant maintenance and often upgrades and renovation for outdated plumbing and electrical work to accommodate modern equipment, fixtures, and living needs. Unfortunately, many buildings comprising the housing stock have experienced a lack of maintenance and disinvestment, resulting in substandard living conditions or outright blight. The City’s percentage of vacant structures is three percent higher than the United States average, and the ACS figure of 3,554 vacant and deteriorating structures creates a negative impression, depresses property values, and reduces the quality of life in many neighborhoods, especially low- and moderate-income neighborhoods.

Table 32 shows that 31 percent of owner occupied and 53 percent of renter occupied units have at least one of the four housing problems identified in the Census. As noted in the Needs Assessment, the majority of these units are cost burdened or severely cost burdened. However, as noted in public meetings and the focus groups sessions, upkeep and maintenance are key issues especially for elderly homeowners living on a fixed income, and for many renters living in older buildings with absentee landlords.

There is a significant need for both owner and rental housing rehabilitation in the City of Middletown, as evidenced by participants in past rehabilitation programs and feedback received during stakeholder discussions during the consultation/participation phase of preparing this document.

Estimated Number of Housing Units Occupied by Low or Moderate Income Families with LBP Hazards

As shown above, 33.0 percent of the City’s owner housing stock and 28.0 percent of rental units were constructed before 1950, and presumed to contain lead-based paint. In total, slightly over 80 percent of owner and renter occupied units were built before the use of lead-based paint was stopped in 1978. The City’s population is 59.8% extremely low-, very low-, and low-income households, who have the difficult task of locating safe and affordable rental housing. Poverty and parental supervision are risk factors in determining the prevalence of lead poisoning.

We estimate that at least 60% of the City's existing housing stock is likely to have lead-based paint hazards.
MA-25 Public and Assisted Housing – 91.210(b)
Introduction

Butler Metropolitan Housing Authority operates the majority of public housing in the City of Middletown and administers the Section 8 Housing Choice Voucher (HCV) Program. The City has a strong and cooperative working relationship with BMHA to address issues of housing and to focus on community issues such as on crime and code enforcement. Butler Metropolitan Housing Authority operates with a board appointed by the Butler County Commissioners. A small number of vouchers in Middletown are administered by Warren County Metropolitan Housing Authority.

Butler Metropolitan Housing Authority has a total of 594 units of public housing in Middletown. Of that number there are 17 handicap-accessible units. More than 90 percent of these units are in the 1, 2 and 3-bedroom range with a significant lack of studio/efficiency units. The Warren Metropolitan Housing Authority manages the Brookview Apartments, a complex of one-, two- and three-bedroom units in Middletown.

Describe the supply of public housing developments:

Describe the number and physical condition of public housing units in the jurisdiction, including those that are participating in an approved Public Housing Agency Plan:

The Butler County Metropolitan Housing Authority has a total of 594 units of public housing in Middletown. Of that number there are 17 handicap-accessible units. More than 90 percent of these units are in the 1, 2 and 3-bedroom range with a significant lack of studio/efficiency units. 108 units are scattered sites; the balance are in structures ranging from 12 to 125 units.

The City also has 719 Low Income Housing Tax Credit units available to assist in affordability. A number of the buildings are older and in need of upgrades and renovations.

Describe the restoration and revitalization needs of public housing units in the jurisdiction:

BMHA’s Middletown units are in good to fair condition. BMHA has a persistent and consistent plan to rehabilitate its units to prevent them falling into disrepair.

Describe the public housing agency’s strategy for improving the living environment of low- and moderate-income families residing in public housing:

BMHA and WMHA have individual plans for serving the needs of their residents. They are connected to the social service community in the county as well as operate independent programs to best serve their residents. Generally, the Butler Metropolitan Housing Authority and the Warren Metropolitan Housing Authority public housing needs, including resident services, do not solicit or request funding support from the City or CDBG but rather work to leverage funding through funding sources available to HA’s. Both Authorities administer a Family Self-Sufficiency program through their respective Section 8 programs.
MA-30 Homeless Facilities and Services – 91.210(c)

Introduction

The City in coordination with Continuum of Care provides a range of housing assistance for the homeless.

Describe mainstream services, such as health, mental health, and employment services to the extent those services are used to complement services targeted to homeless persons

The City of Middletown addresses most of its core needs for homeless and housing related services through a partnership with the Butler County Housing and Homeless Coalition. The Coalition has more than 30 active members working collectively to address needs of persons experiencing homelessness as well as households at risk of becoming homeless. The City works closely with these providers to ensure Middletown’s residents have access to mainstream services.

<table>
<thead>
<tr>
<th>Organization</th>
<th>Services Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Hamilton</td>
<td>Municipality; Community Planning and Funding Support for Homeless Services; Law Enforcement</td>
</tr>
<tr>
<td>City of Middletown</td>
<td>Municipality; Community Planning and Funding Support for Homeless Services; Law Enforcement</td>
</tr>
<tr>
<td>Butler County</td>
<td>Community Planning; PSH (Shelter + Care) Administration; Law Enforcement</td>
</tr>
<tr>
<td>BMHA</td>
<td>Public housing, housing choice vouchers</td>
</tr>
<tr>
<td>Community Development</td>
<td>Permanent Supportive Housing (Shelter Plus Care)</td>
</tr>
<tr>
<td>Professionals</td>
<td></td>
</tr>
<tr>
<td>Butler Behavioral Health</td>
<td>Mental health; case management; housing</td>
</tr>
<tr>
<td>Community Behavioral Health</td>
<td>Mental health; case management; housing</td>
</tr>
<tr>
<td>Sojourner Recovery Services</td>
<td>Substance abuse treatment – inpatient; outpatient</td>
</tr>
<tr>
<td>Genesis</td>
<td>Substance abuse treatment – inpatient; outpatient</td>
</tr>
<tr>
<td>Transitional Living/PATH</td>
<td>Mental health, street outreach, PIT</td>
</tr>
<tr>
<td>Hope House Rescue Mission</td>
<td>Emergency shelter</td>
</tr>
<tr>
<td>Serve City</td>
<td>Emergency shelter</td>
</tr>
<tr>
<td>Organization</td>
<td>Service</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>----------------------------------------------</td>
</tr>
<tr>
<td>YWCA</td>
<td>Transitional shelter for women</td>
</tr>
<tr>
<td>VA</td>
<td>VA services and referral</td>
</tr>
<tr>
<td>Veterans Services Commission</td>
<td>VA services and referral</td>
</tr>
<tr>
<td>Butler County Success</td>
<td>Homeless liaison for schools</td>
</tr>
<tr>
<td>Oxford Family Resource Center</td>
<td>Emergency housing and referrals</td>
</tr>
<tr>
<td>The Dream Project</td>
<td>Developing new transitional housing</td>
</tr>
<tr>
<td>SHALOM</td>
<td>Emergency shelter during winter months</td>
</tr>
<tr>
<td>Family Promise</td>
<td>Emergency shelter for families</td>
</tr>
<tr>
<td>Access Counseling Services</td>
<td>Outreach, Mental health: case management, housing, therapy</td>
</tr>
<tr>
<td>Emergency Money Fund</td>
<td>One-time financial assistance to prevent/end homelessness</td>
</tr>
<tr>
<td>Women Helping Women</td>
<td>Domestic violence, crisis intervention</td>
</tr>
<tr>
<td>Freedom House</td>
<td>Faith community, supportive services</td>
</tr>
<tr>
<td>Lighthouse Church</td>
<td>Faith community, supportive services</td>
</tr>
<tr>
<td>SHALOM</td>
<td>Seasonal emergency shelter, supportive services</td>
</tr>
<tr>
<td>WMHA</td>
<td>HCRP funding</td>
</tr>
<tr>
<td>SELF</td>
<td>Support services to stabilize individuals and families</td>
</tr>
<tr>
<td>Ohio Means Jobs</td>
<td>Job referrals; education to stabilize individuals and families</td>
</tr>
</tbody>
</table>

The City of Middletown has supplemented these efforts to the extent possible in light of the many needs.

List and describe services and facilities that meet the needs of homeless persons, particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth. If the services and facilities are listed on screen SP-40 Institutional Delivery Structure or screen MA-35 Special Needs Facilities and Services, describe how these facilities and services specifically address the needs of these populations.

The City is home to three homeless shelters - Hope House Rescue Mission serves up to 40 men; Center of Hope provides shelter for up to 25 families with children; and SHALOM is a seasonal shelter...
that can serve up to persons during the winter months. The shelters work to connect clients with available services in the community and move them out of homelessness as quickly as possible. All three shelters are members of the Butler County Housing and Homeless Coalition. Butler County is also part of Region 14 under the Ohio Development Services Agency’s Balance of State Continuum of Care. This system prioritizes chronically homeless individuals and subscribes to a housing first approach. All providers also report to the state on housing outcomes.

**MA-35 Special Needs Facilities and Services – 91.210(d)**

**Introduction**

Non-homeless special needs such as senior services, mental services, services for persons with HIV/AIDS, and Alcohol and Drug treatment are all extremely important to the City of Middletown. The City works in partnership with local providers such as Primary Health Solutions, Butler County Development Disabilities, Community Connections and the Butler County Mental Health and Recovery Services Board to ensure residents have access to services and programs they need.

**Including the elderly, frail elderly, persons with disabilities (mental, physical, developmental), persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, public housing residents and any other categories the jurisdiction may specify, and describe their supportive housing needs**

The numbers of and supportive needs of these groups was described above in Section NA-45. The City will support and encourage social and public service providers to seek funding assistance from Federal, State and private sector resource to fund individual programs as appropriate.

**Describe programs for ensuring that persons returning from mental and physical health institutions receive appropriate supportive housing**

Middletown works closely with Butler County and its permanent supportive housing program. Hope House also recently constructed a new facility which offers ad 25 new permanent supportive housing units. BCHHC monitors the local system of care for those experiencing homelessness and works to ensure there is a solid system for appropriate supportive housing. In addition, several other public systems have policy that ensures persons are appropriately discharged:

**Foster Care:**

Each Public Children’s Service Agency (PCS) shall provide appropriate services and support to former foster care recipients. The services and supports are to complement the young adult's own efforts and shall be available until the young adult's twenty-first birthday. Independent living services that are available to young adults aged eighteen to twenty-one include: daily living skills, assistance in obtaining a diploma or GED, entering post-secondary education or training, career exploration, vocational training, job placement and retention, preventative health activities, financial, housing, employment, education and self-esteem counseling, drug and alcohol abuse prevention and treatment. An agency may use up to 30% of its federal allocation for room and board for the emancipated youth up to age 21, which includes assistance with rent, deposit, utilities, or utility deposits. Each county's protocol may be different as
Ohio is a state supervised, county administered state. If a child is 16 years or older and is likely to remain in care the agency must have a written independent living plan to achieve self-sufficiency developed within thirty days of the completion of an assessment. The plan should be based upon the assessment and include input from the youth, the youth's case manager, the caregiver, and significant others in the youth's life. The independent living plan should be reviewed at least every ninety days thereafter until the agency's custody is terminated.

Health Care:
The Ohio General Assembly has enacted laws governing the transfer and discharge of residents in nursing homes (NHs) and residential care facilities (RCFs) [Ohio Revised Code (ORC) section 3721.16], adult care facilities (ACFs) [ORC section 3722.14], and community alternative homes (CAH)[ORC section 3724.10]. As the licensing agency for these facilities, the Department of Health promulgated Chapter 3701-16 of the Ohio Administrative Code (OAC) that further expounds on the transfer and discharge rights of NH and RCF residents and OAC rules 3701-20-24 (ACF) and 3701-16, 23 (CAH). The Department ensures that these provider types follow the appropriate Department of Health promulgated Chapter 3701-16 of the Ohio Administrative Code (OAC) that further expounds on the transfer and discharge rights of NH and RCF residents and OAC rules 3701-20-24 (ACF) and 3701-16, 23 (CAH). The Department ensures that these provider types follow the appropriate regulations regarding transfer, discharge, or both, by reviewing documentation that the facility has initiated discharge planning and that alternatives have been explored and exhausted prior to discharge. Although Ohio does not license hospitals, ODH as the State Survey Agency for Medicare, surveys hospitals for compliance with Medicare certification regulations related to resident discharge rights 42 CFR 482.13 and discharge planning, 42 CFR 482.43, which establish hearing rights for premature discharge and requirements for planning for patients' needs after discharge.

Mental Health:
It is the policy of Ohio Department of Mental Health that homeless shelters are not appropriate living arrangements for persons with mental illness. Patients being discharged from ODMH Behavioral Health Organizations (BHO)/Hospitals are not to be discharged to a shelter or to the street. Community Support Network (CSN) programs are required to have appropriately approved emergency housing plans in place in the event their clients undergo unexpected residential change. These entities, in conjunction with the responsible or contracting Board or agency, must exhaust all reasonable efforts to locate suitable housing options for patients being discharged. Patients in ODMH BHO shall not be discharged to homeless shelters and clients in an ODMH CSN program shall not be removed or relocated from community housing options to homeless shelters unless the responsible board or contract agency has been involved in the decision making process and it is the expressed wish of the affected person and other placement options have been offered to the affected person and refused. When a discharge or relocation to a homeless shelter occurs under these guidelines, the reasons shall be thoroughly documented in the persons chart and reviewed via the BHO's quality improvement process. Persons may not be discharged or relocated to homeless shelters for the convenience of staff, as a punitive measure, or for expediency. ODMH BHO policies shall be consistent with this directive.
Corrections
Ohio Department of Rehabilitation and Correction policy is to not discharge persons to the streets or a shelter. Reentry planning addresses an offender's needs, linkages to the community and appropriate supervision activities subsequent to release. Prior to release, case managers assist in determining potential housing options for release; review with the offender the need for appropriate documents and assist in acquiring those documents; and make appropriate community linkages for offenders with substance abuse, mental health diagnoses and medical concerns. Case managers finalize housing and transportation plans and secure transportation, if needed. All plans for final release are documented in the offender’s reentry plan. Offenders are offered release preparation classes to address job search and retention, resume writing, interviewing skills, community resources, and substance abuse, mental health and medical issues. The Ohio Department of Youth Services' (ODYS) policy is to return all youth to their home, if possible. Alternatives include placement with extended family, foster care, independent living, etc. Transition/release planning for all youth begins within 60 days of admission to an ODYS facility and continues for the duration of commitment. For those youth who are committed to ODYS until a date equal to or near their 21st birthday, transition/release planning requires a formal case staffing process to begin one year prior to release.

Specify the activities that the jurisdiction plans to undertake during the next year to address the housing and supportive services needs identified in accordance with 91.215(e) with respect to persons who are not homeless but have other special needs. Link to one-year goals. 91.315(e)

The City’s plan includes funding support to SELF and PWC for housing repair; Legal Aid for legal services and HOME for fair housing services.

MA-40 Barriers to Affordable Housing – 91.210(e)

Negative Effects of Public Policies on Affordable Housing and Residential Investment

Through city protocol and tools such as zoning ordinances, subdivision controls, permit systems, and housing codes and standards, the City strives to strike a balance between ensuring the health, safety, and quality of life for its residents and minimizing barriers for affordable housing. The City, in partnership with Butler County, prepares an analysis of impediments to fair housing choice and follows the recommendations outlined in the AI.

A strong impediment to housing choice is quality of affordable housing. Many of the smaller, affordable homes have deteriorated due to lack of maintenance and upkeep. For owner occupied homes, many of the homeowners are LMI and lack the ability to pay for proper upkeep. For homes that have turned into rental properties, many of the landlords live out of town and do not invest sufficiently to maintain the quality of the rental unit.

Many housing units pre-date 1978 and presumably contain lead-based paint and asbestos, both of which must be remediated where extreme rehabilitation is necessary in order to bring the structure up to code. This makes housing redevelopment expensive and out of the reach of low-income households.
MA-45 Non-Housing Community Development Assets – 91.215 (f)

Introduction

The City has many non-housing community development assets. The City has its own existing water and sewer systems and a robust public works department. The City is located on the river and has strong quality of life activities and parks that take advantage of this natural asset. The City has a strong transportation system with linkages to a larger, county-wide system. The City boasts a strong senior center and many social services providers to serve non-housing needs of vulnerable residents. The City has active business districts and has experienced a re-emergence of locally owned businesses in its downtown corridor. The City has re-invented itself as an arts community and has a vibrant arts community, including local nonprofits and several artist-led businesses that add to the local culture.

Economic development continues to be a priority for the City and is key to the growth and revitalization of Middletown. As noted in the commissioned studies that, in part, inform the Consolidated Plan, livable wage employment is key to economic stability both for individual households and the City as a whole. One of the priorities of this Consolidated Plan is readying the workforce to tap into available jobs. Education and job training are crucial to having and keeping a competitive workforce. The City will continue to work though the local business community and economic development practitioners to steward resources and invest in activities and infrastructure that will make Middletown competitive in attracting new businesses.

Economic Development Market Analysis

Business Activity

<table>
<thead>
<tr>
<th>Business by Sector</th>
<th>Number of Workers</th>
<th>Number of Jobs</th>
<th>Share of Workers %</th>
<th>Share of Jobs %</th>
<th>Jobs less workers %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, Mining, Oil &amp; Gas Extraction</td>
<td>29</td>
<td>16</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Arts, Entertainment, Accommodations</td>
<td>1,968</td>
<td>1,982</td>
<td>12</td>
<td>11</td>
<td>-2</td>
</tr>
<tr>
<td>Construction</td>
<td>630</td>
<td>578</td>
<td>4</td>
<td>3</td>
<td>-1</td>
</tr>
<tr>
<td>Education and Health Care Services</td>
<td>2,956</td>
<td>4,104</td>
<td>18</td>
<td>22</td>
<td>4</td>
</tr>
<tr>
<td>Finance, Insurance, and Real Estate</td>
<td>917</td>
<td>949</td>
<td>6</td>
<td>5</td>
<td>-1</td>
</tr>
<tr>
<td>Information</td>
<td>254</td>
<td>59</td>
<td>2</td>
<td>0</td>
<td>-1</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>2,936</td>
<td>4,854</td>
<td>18</td>
<td>26</td>
<td>8</td>
</tr>
<tr>
<td>Other Services</td>
<td>547</td>
<td>473</td>
<td>3</td>
<td>3</td>
<td>-1</td>
</tr>
<tr>
<td>Industry</td>
<td>2020</td>
<td>2021</td>
<td>2022</td>
<td>2023</td>
<td>2024</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Professional, Scientific, Management Services</td>
<td>1,143</td>
<td>516</td>
<td>7</td>
<td>3</td>
<td>-4</td>
</tr>
<tr>
<td>Public Administration</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Retail Trade</td>
<td>2,219</td>
<td>3,342</td>
<td>14</td>
<td>18</td>
<td>4</td>
</tr>
</tbody>
</table>
Based on the Business Activity table above, what are the major employment sectors within your jurisdiction?

Education and health care is the category with the largest employees followed by manufacturing and retail employment. Arts, Entertainment and Accommodations is the fourth largest sector.

Describe the workforce and infrastructure needs of the business community:

The City has a vibrant business community and strong systemic infrastructure. The Chamber and Small Business Development Center work closely with the local business districts and the City’s economic development department to meet the needs of local businesses. Infrastructure issues are a low priority for the use of CDBG funds.

The greatest need for the City in terms of economic development is workforce development. The City has experienced an increase in the number of livable wage jobs in the community but business owners and employers express difficulty in filling these positions. This Consolidated Plan includes a priority to prepare the local workforce and provide soft skills, education and other training needed to ready residents to fill these employment needs.

The earnings figures in Table 45 show what is commonly known - that the higher one’s level of education, the greater one’s earnings. Indeed, the Median Income figure for those with less than a high school diploma is below the current poverty level. Unfortunately, in Middletown the educational attainment level of many residents is low as shown in Table 44 - almost 4,000 persons in the working age cohorts (18 - 65) do not have a high school diploma and only 2,356 persons in these cohorts have a Bachelor’s degree.

Describe any major changes that may have an economic impact, such as planned local or regional public or private sector investments or initiatives that have affected or may affect job and business growth opportunities during the planning period. Describe any needs for workforce development, business support or infrastructure these changes may create.

There are no specific major changes that are anticipated to have an economic impact. Over the last five years, the City has commissioned economic development and community development studies and worked to strategically improve the economic conditions in the City. Industrial and commercial space in Middletown is plentiful, varied, and affordable relative to other locations. The City is working to rebrand its business corridors and overall image and continue efforts to attract new businesses to the marketplace. The Downtown Revitalization program and the Renaissance East projects both focus efforts on business development. The City plans to continue its partnership with Community Building Institute as well as Miami University and Ohio Means Jobs on issues of workforce development.
How do the skills and education of the current workforce correspond to employment opportunities in the jurisdiction?

Available employment outpaces the available workforce in the community. This challenge provides opportunity for the City to expand its workforce development efforts and ready its LMI residents to fill these available jobs. Many current LMI households are unemployed or underemployed. Available employment combined with strategic efforts to train or retrain workers will result in a stronger workforce and increased income among resident households.

Describe any current workforce training initiatives, including those supported by Workforce Investment Boards, community colleges and other organizations. Describe how these efforts will support the jurisdiction’s Consolidated Plan.

Butler County Workforce One offers an expansive business service catalog, assisting employers with recruitment expertise, occupational skills training, employee wage reimbursement through On-the-Job Training, layoff aversion and outplacement assistance services. Ohio Means Jobs, the employment services arm of Ohio Department of Jobs and Family Services provides its resources through a partnership with Community Building Institute. For this Consolidated Plan, the City is partnering with CBI to directly and strategically ready the local workforce. In addition, Cincinnati State Community College and Miami University both offer affordable higher education and job placement assistance for residents of Middletown.

Does your jurisdiction participate in a Comprehensive Economic Development Strategy (CEDS)?

No.

If so, what economic development initiatives are you undertaking that may be coordinated with the Consolidated Plan? If not, describe other local/regional plans or initiatives that impact economic growth.

N/A
MA-50 Needs and Market Analysis Discussion

Are there areas where households with multiple housing problems are concentrated? (include a definition of "concentration")

Cost burden and severe cost burden represent the most prevalent housing problem in Middletown. Almost 60 percent of the City’s households are in the three lowest HUD income categories and face difficulties in obtaining affordable housing that is decent and safe. These populations are concentrated in the City’s low/mod Census Tracts.

Because of the amount of poverty spread throughout the City, it may be reasonably asserted that households with multiple housing problems are not concentrated in any particular area. The City's low/mod Census Tracts are all in need of reinvestment through owner and rental housing rehabilitation.

Are there any areas in the jurisdiction where racial or ethnic minorities or low-income families are concentrated? (include a definition of "concentration")

Census Tracts 013000, 013100, and 014000 each contain higher percentages of African-American and Hispanic populations.

What are the characteristics of the market in these areas/neighborhoods?

The characteristics of these neighborhoods are consistent with the other LMI areas of the City. Homes in these areas are older and many are in disrepair because of limited financial means of owners. Single-family owner-occupied units placed on the market are reasonably priced but many require extensive renovation. Single family dwellings that have been converted to renter-occupied units also often fall into disrepair because of absentee landlords.

Are there any community assets in these areas/neighborhoods?

Middletown has invested strongly in its LMI areas both with CDBG and HOME funds as well as other available public and private funds. LMI neighborhoods have strong park systems and green space as well as social service networks available to residents. The City’s sole community center is also in an LMI neighborhood. While the needs in neighborhoods are greater than the limited resources available to meet those needs, the City continues to work strategically to maximize available public and private investments. For this consolidated planning period, the City is concentrating CDBG resources and HOME funds into specific neighborhoods, starting with Oakland.
Are there other strategic opportunities in any of these areas?

The City partners with nonprofit organizations who also concentrate efforts in specific sites. SELF provides workcamps to help with minor home repairs for LMI residents, especially the elderly. People Working Cooperatively also focuses its efforts in areas that are predominantly low and moderate income households. Middletown civic groups sponsor neighborhood clean-ups and local business districts champion quality of life events such as parades, concerts and festivals. The City also has strong relationships with the local faith community that often participate in and champion neighborhood revitalization improvements in the local community.
Strategic Plan

SP-05 Overview

Strategic Plan Overview

The latest data indicates that the City of Middletown qualifies as a low to moderate-income area on a citywide basis (56.54% of total households). The areas of racial concentration are primarily on the west and south sides of town. The City has embarked upon a new, more comprehensive strategy to overcome market forces. Given the condition of some neighborhoods, reliance on the private sector to turn undesirable neighborhoods around is an unlikely strategy. Public sector leaderships and incentives are being employed to entice private sector participation through a comprehensive multiyear revitalization process. Blighting influences are being removed and housing units are required meet the minimum building code before a neighborhood’s revitalization process is concluded. This strategy requires a proactive approach and a concentration of resources into select neighborhoods, and this deliberate concentration of resources has resulted in significant progress in the targeted neighborhoods.

The needs in these target areas are numerous and varied. The principal needs are: 1) housing rehabilitation for both owner and renter units, 2) rental assistance for extremely low-income households threatened with homelessness, 3) public improvements to improve/revitalize neighborhoods, 4) demolition of dilapidated, unsafe, or abandoned properties, 5) small business assistance (loans, facades, training) 6) job training and education, and 7) assisting the homeless.

Market conditions, especially increasing rental costs, low incomes, stagnant wages, and a low vacancy rate create the needs for the rental programs, while high down payment requirements and stringent loan standards create a need for home buyer assistance programs. The presence of many abandoned, unsafe, and dilapidated structures has created the need for an aggressive acquisition and demolition program to remove these structures and improve the quality and appearance of the target neighborhoods.

Overall, the institutional delivery system functions well, but the City is working to improve its outreach and information efforts and to improve coordination, collaboration, and information sharing better among the various entities responsible for program delivery.
SP-10 Geographic Priorities – 91.215 (a)(1)

Geographic Area

1. Area Name: The latest U.S. Census data and Comprehensive Housing Affordability Strategy (CHAS) data indicate that the City of Middletown qualifies as a low to moderate-income area on a citywide basis (56.54% of total households). The areas of racial concentration are primarily on the west and south sides of town. The City is made up of 38 individual neighborhoods. Each year of this Five-year Consolidated Plan the City will focus the majority of activities in 1-2 target neighborhoods most in need of revitalization, the first being Oakland.
**Area Type:** All census tracts outlined in purple below are low/mod neighborhoods as defined by HUD
Identify the neighborhood boundaries for this target area.

The target areas are the low/mod neighborhoods shown below.

Oakland is the target area identified for the initial efforts of CDBG and HOME funds.
Include specific housing and commercial characteristics of this target area.

Oakland is home to several historic homes and older single-family dwellings. The site houses the former Carnegie library which is being repurposed into a mixed-use development as well as the site of the former middle school. Oakland has private reinvestment plans to rehab historic homes using historic tax credits. There is also interest in repurposing the former tax-exempt property owned by the schools into new housing that would generate property tax for the district. The City hopes to use public investment alongside the current private investment efforts to renovate this LMI target neighborhood.
How did your consultation and citizen participation process help you to identify this neighborhood as a target area?

Oakland emerged as the highest priority LMI neighborhood after assessing data presented from the various community-driven studies and plans as well as through the citizen participation process for development of the ConPlan.

Identify the needs in this target area.

The needs in the target areas are: 1) housing rehabilitation for owner-occupied units, 2) Down payment assistance to convert renters to homeowners; 3) Incentivizing people who work in Middletown to live in Middletown and 4) Repairs for existing homeowners.

What are the opportunities for improvement in this target area?

The City has opportunity to leverage public funds through CDBG and HOME with private investment in the Oakland neighborhood to undertake strong revitalization activities. The City wants to provide opportunities for new homeowners through down payment assistance and live/work incentives and help existing homeowners improve the quality of their residences through repair programs. The City also wants to undertake beautification and street resurfacing to ensure a comprehensive revitalization of this neighborhood.

Are there barriers to improvement in this target area?

No. The City is positioned to move quickly on prioritizing this neighborhood for revitalization.

Table 46 - Geographic Priority Areas

General Allocation Priorities

Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA)

Target areas are identified based on CHAS data. Prioritization of Oakland and other LMI target areas resulted from community input and use of existing plans and policies such as What If Middletown, Chamber of Commerce Focus Areas, City of Middletown Housing Policy, Danter Housing Study, Comprehensive Plan – Middletown, United Way bold goals and BCHHC CoC Plan.
SP-25 Priority Needs - 91.215(a)(2)

Priority Needs

Priorities are based on input from data sets through CHAS, public participation process, City-commissioned studies and plans, recommendations of City staff, and consistency with the City Master Plan.

SP-30 Influence of Market Conditions – 91.215 (b)

Influence of Market Conditions

<table>
<thead>
<tr>
<th>Affordable Housing Type</th>
<th>Market Characteristics that will influence the use of funds available for housing type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenant Based Rental Assistance (TBRA)</td>
<td>The City will not use TBRA as part of its ConPlan strategy.</td>
</tr>
<tr>
<td>TBRA for Non-Homeless Special Needs</td>
<td>The City will not use TBRA as part of its ConPlan strategy.</td>
</tr>
<tr>
<td>New Unit Production</td>
<td>The City will not use CDBG funds to add units to the market as part of its ConPlan strategy. The City will support new development in Oakland as part of its redevelopment strategy.</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>Rehabilitation of owner-occupied units is a high priority in this Consolidated Plan.</td>
</tr>
<tr>
<td>Acquisition, including preservation</td>
<td>The City will not allocated funds for acquisition as part of its ConPlan strategy.</td>
</tr>
</tbody>
</table>
SP-35 Anticipated Resources - 91.215(a)(4), 91.220(c)(1,2)

Introduction

The City of Middletown, like many communities, is faced with the challenging task of meeting increasing needs with fluctuating and/or decreasing federal and state resources.

The figures shown in the table below reflect HUD's current allocations. The figure for “Expected Amount Available Remainder of ConPlan” anticipates level funding using the 2014 allocation amounts and projecting those amounts over the four remaining years covered by the Consolidated Plan.

Anticipated Resources

Anticipated CDBG PY2020: $733,171

| Caps: Planning/Admin @ 20% = $146,626 Public Services @ 15% = $109,976 |

| Housing Revitalization (Eligible CDBG activity: Housing) | $70,000 |
| Emergency Repair Program (PWC) | $50,000 |
| SELF | $20,000 |

| Public Services (Eligible CDBG activity: Public Service) | $62,500 |
| Fair Housing (HOME) | $7,000 |
| Legal Aid of Greater Cincinnati | $15,000 |
| CBI | $30,000 |
| CBI (Workforce Development) | $30,000 |

| Public Facilities & Improvements (Eligible CDBG activity: Public Improvements) | $434,537 |
| Street Resurfacing/ Beautification | $434,537 |

| Grants Administration | $146,626 |
| Planning/Program Administration – CDP | $146,626 |
Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City is working closely with development partners of the Oakland neighborhood to leverage private/public funds. In addition, matching requirements are satisfied through other eligible local resources and in-kind services.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

In cooperation with Butler County, the City is part of the Butler County Land Bank. Middletown will continue to utilize the land bank to acquire vacant lots and properties to use for resale, demolition, or rehabilitation as appropriate.
SP-40 Institutional Delivery Structure – 91.215(k)

Explain the institutional structure through which the jurisdiction will carry out its consolidated plan including private industry, non-profit organizations, and public institutions.

Department of Administrative Services (DAS) is lead for the administration of CDBG and HOME funds for the City of Middletown. DAS partners with Community Development Professionals (CDP) to handle its day-to-day administration of CDBG and HOME funds. CDP’s system provides strong controls for processing invoices and ensuring compliance with HUD mandates and directives. In addition, DAS reviews and approves all expenditures and works within the City’s framework to ensure all mandates, directives, policies and protocols are followed.

The HOME program is administered in partnership with Butler County through the HOME consortium. HOME first time home buyer down payment assistance is processed through a local nonprofit, Neighborhood Housing Services. NHS processes, CDP reviews and approves and forwards to DAS for payment processing.

DAS is active in the Butler County Homeless Coalition and the Butler County Foreclosure Prevention Group. The Department interacts, cooperates and coordinates on an ongoing basis with many non-profits to ensure the best delivery of services without duplication of efforts. Butler County and the City of Middletown have a joint HOME Consortium for utilization of HOME funds.

Butler Metropolitan Housing Authority and the Warren Metropolitan Housing Authority administer Section 8 for the area and continue to operate public housing in the City of Middletown. While the City has no direct control over the Butler Metropolitan Housing Authority or the Warren Metropolitan Housing Authority, which are administered by Boards appointed by their respective County Commissioners, DAS staff have a good working relationship with both housing authorities. The entities cooperate with City staff on crime and code enforcement issues.

<table>
<thead>
<tr>
<th>Responsible Entity</th>
<th>Responsible Entity Type</th>
<th>Role</th>
<th>Geographic Area Served</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Administrative Services</td>
<td>Government</td>
<td>Lead Agency</td>
<td>City</td>
</tr>
<tr>
<td>Butler County Housing and Homeless Coalition</td>
<td>Nonprofit</td>
<td>Homelessness, CoC, and Housing</td>
<td>City &amp; County</td>
</tr>
<tr>
<td>Butler Metropolitan Housing Authority</td>
<td>Government</td>
<td>Public Housing, Section 8</td>
<td>City and County</td>
</tr>
<tr>
<td>Warren Metropolitan Housing Authority</td>
<td>Government</td>
<td>Section 8/HCV</td>
<td>City and County</td>
</tr>
<tr>
<td>Public Works and Utilities Department</td>
<td>Government</td>
<td>Infrastructure</td>
<td>City</td>
</tr>
<tr>
<td>Legal Aid of Greater Cincinnati</td>
<td>Nonprofit</td>
<td>Housing</td>
<td>Region</td>
</tr>
<tr>
<td>Neighborhood Housing Services</td>
<td>Nonprofit</td>
<td>Housing</td>
<td>City</td>
</tr>
<tr>
<td>Butler County Homeowner Preservation Group</td>
<td>Nonprofit</td>
<td>Housing</td>
<td>County</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-----------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>Middletown Community Foundation</td>
<td>Nonprofit</td>
<td>Community Services</td>
<td>City</td>
</tr>
<tr>
<td>United Way of Greater Cincinnati</td>
<td>Nonprofit</td>
<td>Community Services</td>
<td>Region</td>
</tr>
</tbody>
</table>

**Table 50 - Institutional Delivery Structure**

Assess of Strengths and Gaps in the Institutional Delivery System

The institutional structure involved carrying out the City’s housing, homeless, and community development plan includes, in addition to the Lead Agency, the public, municipal officials, private non-profit organizations, faith-based and community organizations, public housing agencies and other public institutions. The strength of this structure is that these organizations make up the City’s service delivery system and the public often serves as an informal outreach mechanism that helps link residents with services.

The City will continue to work closely with Butler County in several areas including social services, lead abatement and mental health services. The City anticipates continued active participation in the Butler County Housing and Homeless Coalition.

The City will continue to seek to establish new relationships with the private sector to accomplish economic and community development activities.

One of the strengths of the delivery system is the City’s outreach and information efforts. The City works diligently to involve and inform as many agencies, organizations and institutions of the HUD programs, and has been successful in this regard. The program information that is disseminated is detailed and identifies the City’s priority areas and priority needs. The types of programs and activities that can be funded under each of HUD programs and those activities that are not eligible for funding are clearly defined and the City helps grant applicants understand program requirements, the application and selection process, and the City’s expectations for program reporting. The staff also sits on many local boards/commissions and hold leadership positions in a number of organizations because of their knowledge and expertise.

One of the greatest difficulties Community Revitalization faces is ensuring that sub-recipients understand program and reporting requirements. The City provides information sessions to address this gap that applicants and grantees have identified in recent meetings. These sessions provide the information needed for applicants to properly complete the application process and ensure that their programs or activities are appropriate for HUD funding. At the same time, applicants are made aware of the reporting requirements and measures that they must meet if awarded a grant.
## Availability of services targeted to homeless persons and persons with HIV and mainstream services

<table>
<thead>
<tr>
<th>Homelessness Prevention Services</th>
<th>Available in the Community</th>
<th>Targeted to Homeless</th>
<th>Targeted to People with HIV</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Homelessness Prevention Services</strong></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Counseling/Advocacy</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Legal Assistance</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Mortgage Assistance</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Rental Assistance</td>
<td>X</td>
<td>X</td>
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<tr>
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<td><strong>Supportive Services</strong></td>
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<tr>
<td>Transportation</td>
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<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>
Describe how the service delivery system including, but not limited to, the services listed above meet the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth)

The County is part of the Balance of State for Ohio and in Region 14. The Butler County Housing and Homeless Coalition oversees the local continuum of care under the direction of the Coalition on Housing and Homelessness in Ohio. The local community follows a housing first model and prioritizes chronically homeless individuals.

The local CoC uses Coordinated Entry (CE) which is locally coordinated at Hope House in Middletown. All persons seeking shelter call a general number for entry into the CoC. The CE Access Point makes referrals through the Homeless Information Management System to the appropriate shelters within the system. Data across systems providers is managed in HMIS.

Describe the strengths and gaps of the service delivery system for special needs population and persons experiencing homelessness, including, but not limited to, the services listed above

This delivery system includes a wide range of services for special needs populations and persons experiencing homelessness, and through the Continuum of Care, these programs are coordinated into a County-wide strategy to prevent homelessness and address it in a comprehensive manner. The primary strength of addressing homelessness through participation in the Continuum of Care is that it allows continuum partners to focus resources on specific issues in order to avoid duplication of services. The Continuum also allows for a wider array of voices to be heard on what is a wide ranging issue.

BCHHC meets monthly to provide information and coordinate resources. BCHHC also participates in quarterly regional meetings. CE is a best practice across CoC systems.

There are insufficient capacity for family shelter in the county. The City is working with BCHHC on ways to close the gaps across the continuum.

Provide a summary of the strategy for overcoming gaps in the institutional structure and service delivery system for carrying out a strategy to address priority needs

The City of Middletown plans to undertake the following actions during the next program year to further develop an improved institutional structure:
1) Continue and enhance private sector involvement.
2) Continue as an active member in the Butler County Housing and Homeless Coalition.
3) Continue regional meetings with adjacent jurisdictions to discuss community needs.
4) Continue cooperation with local funding agencies, such as the United Way and the Middletown Community Foundation, to assist wherever possible.
5) Continue as an active member of the Butler County Homeowner Preservation Group, seeking resources to keep homeowners in their home and reduce foreclosures.
<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Goal Name</th>
<th>Start Year</th>
<th>End Year</th>
<th>Category</th>
<th>Geographic Area</th>
<th>Needs Addressed</th>
<th>Funding</th>
<th>Goal Outcome Indicator</th>
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<td>Housing Revitalization</td>
<td>2020</td>
<td>2025</td>
<td>Quality Affordable Housing</td>
<td>Citywide</td>
<td>Quality affordable housing</td>
<td>CDBG</td>
<td>Number of Units Rehabbed</td>
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<td>Neighborhood Revitalization</td>
<td>2020</td>
<td>2025</td>
<td>Quality Affordable Housing; Suitable living environment</td>
<td>Citywide</td>
<td>Quality affordable housing; Quality of Life</td>
<td>CDBG</td>
<td>Number of Improvements</td>
</tr>
<tr>
<td>3</td>
<td>Public Services</td>
<td>2020</td>
<td>2025</td>
<td>Suitable living environment</td>
<td>Citywide</td>
<td>Quality of Life</td>
<td>CDBG</td>
<td>Number of Persons Assisted</td>
</tr>
<tr>
<td>4</td>
<td>Fair Housing</td>
<td>2020</td>
<td>2025</td>
<td>Suitable living environment</td>
<td>Citywide</td>
<td>Quality of Life</td>
<td>CDBG</td>
<td>Number of Persons Assisted</td>
</tr>
<tr>
<td>5</td>
<td>Public Facilities Improvements</td>
<td>2020</td>
<td>2025</td>
<td>Suitable living environment</td>
<td>Citywide</td>
<td>Quality of Life</td>
<td>CDBG</td>
<td>Number of Persons Assisted</td>
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<tr>
<td>6</td>
<td>Homeless Activities; prevention, shelters, transitional</td>
<td>2020</td>
<td>2025</td>
<td>Quality Affordable Housing</td>
<td>Citywide</td>
<td>Quality affordable housing</td>
<td>CDBG</td>
<td>Number of persons or households assisted</td>
</tr>
<tr>
<td>7</td>
<td>Economic Development</td>
<td>2020</td>
<td>2025</td>
<td>Economic Opportunity</td>
<td>Citywide</td>
<td>Economic Growth</td>
<td>CDBG</td>
<td>Number of businesses assisted</td>
</tr>
</tbody>
</table>

SP-45 Goals Summary – 91.215(a)(4)

Goals Summary Information

Goal Descriptions

Housing Revitalization – Emergency home repairs, home rehabilitation
Neighborhood Revitalization – Neighborhood improvements
Public Services – Programs for youth, workforce development
Fair Housing – Fair Housing programs and services; support for legal aid
Public Facilities – Repairs and Improvements to public facilities
Infrastructure – Improvements for municipal infrastructure, including streets, water, sewer and lighting
Homeless Activities – homelessness prevention, emergency shelters, transitional housing
Economic Development – business assistance
Estimate the number of extremely low-income, low-income, and moderate-income families to whom the jurisdiction will provide affordable housing as defined by HOME 91.315(b)(2)

100 households will be assisted with affordable housing services.
SP-50 Public Housing Accessibility and Involvement – 91.215(c)

Need to Increase the Number of Accessible Units (if Required by a Section 504 Voluntary Compliance Agreement)

This will be accomplished as needed through the City’s subrecipients.

Activities to Increase Resident Involvements

This is a function of the two Housing Authorities and City CDBG funds are not planned to be used for this activity.

Is the public housing agency designated as troubled under 24 CFR part 902?

No

Plan to remove the ‘troubled’ designation

Not Applicable
SP-55 Barriers to affordable housing – 91.215(h)

Barriers to Affordable Housing

Strategy to Remove or Ameliorate the Barriers to Affordable Housing

The City of Middletown will:

1) Assist LMI home owners living in target areas to repair/rehab their homes.
2) Provide down payment/closing cost assistance to encourage home ownership.
3) Work to increase income of LMI households to remove cost burden.

SP-60 Homelessness Strategy – 91.215(d)

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City will continue its participation in the Butler County Housing and Homeless Coalition which reaches out to sheltered and unsheltered persons to assess needs and provide services.

Addressing the emergency and transitional housing needs of homeless persons

The City does have several shelters to provide emergency and transitional housing for the homeless. These include Hope House Rescue Mission, which provides assistance to up to 40 homeless men, the Center of Hope for Women and Children in Middletown, a 25-unit facility and the Shalom network of shelters. Other services for the homeless are provided through the Butler Housing and Homeless Coalition.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again.

The City cooperates with the Butler County Housing and Homeless Coalition to rehouse persons experiencing homelessness and provide wraparound services to limit recidivism.
Help low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families who are likely to become homeless after being discharged from a publicly funded institution or system of care, or who are receiving assistance from public and private agencies that address housing, health, social services, employment, education or youth needs.

Services offered to residents of Middletown and Butler County to prevent homelessness include the Emergency Money Fund and Homeless Crisis Response Program administered through Warren Metropolitan Housing Authority. There are also funds available for emergency rent and utility payment through SELF, the local Community Action Program (CAP) agency. Additionally, Butler Metropolitan Housing Authority (BMHA) has a working relationship with Transitional Living who provides mental health assessment and permanent housing placement services.

Activities planned to implement a community-wide discharge policy begin with the Butler County Housing and Homeless Coalition. Homeless providers serving not just Middletown, but the entire county meet monthly and are developing a community-wide policy.
SP-65 Lead based paint Hazards – 91.215(i)

Actions to address LBP hazards and increase access to housing without LBP hazards

The City takes various steps to evaluate and reduce lead-based paint hazards. When executing the City’s Rehabilitation Program, the HUD Field Project Manager reviews the site for a preliminary estimate of work items and evaluates the condition of the house. He is also a licensed lead risk assessor and abatement contractor. The age of the house is then determined by County Auditor records. If the possibility of lead is present in a home, the HUD Field Project Manager performs a risk assessment to determine any lead hazards and areas of concern which could be damaged during construction. At the conclusion of rehabilitation work, a clearance test is performed to ensure that the area is free of any lead based paint contamination.

The City of Middletown generally caps its rehabilitation projects at $25,000, to avoid full lead abatement.

The HUD Field Project Manager and the HUD Program Administrator are licensed Lead Safe Renovators. The Department of Administrative Services has sent appropriate staff to the proper courses to achieve Lead Abatement Contractor certification which permits City staff to write specs for rehabilitation work involving disturbance of lead based paint surfaces.

How are the actions listed above related to the extent of lead poisoning and hazards?

Throughout the City, children continue to be faced with developmental, behavioral, and intellectual impediments from exposure to toxic sources of lead in their homes. More than 50% of the housing stock was built before 1950 when lead-based paint was commonly and legally used. The housing stock has aged to a point of dilapidation, disrepair and continues to be the major source of lead exposure to children.

How are the actions listed above integrated into housing policies and procedures?

The City has a staff member that is a lead risk assessor and a lead abatement contractor. All lead hazards are addressed appropriately according to the Lead-Safe Housing Rule. In addition, contractors used by the City are RRP certified lead safe renovators. All rehab work utilizes appropriate lead-safe work practices and lead abatement where deemed necessary.
SP-70 Anti-Poverty Strategy – 91.215(j)

Jurisdiction Goals, Programs and Policies for reducing the number of Poverty-Level Families

How are the Jurisdiction poverty reducing goals, programs, and policies coordinated with this affordable housing plan

The City works to coordinate its various plans and services including its own comprehensive plan and this Consolidated Plan. The City of Middletown supports the efforts of SELF, the local Community Action Agency, to identify and eliminate poverty in the community. In addition, Middletown has prioritized workforce development in this Consolidated Plan in order to raise the income levels of LMI households in the city.

The City of Middletown will continue to work with regional governments, county governments, and departments, agencies and nonprofits, families and citizens to keep residents in their homes, assist families to purchase homes, and maintain and improve communities in which people wish to stay and raise families.
SP-80 Monitoring – 91.230

Describe the standards and procedures that the jurisdiction will use to monitor activities carried out in furtherance of the plan and will use to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements.

Prior to implementation, all housing and community development projects are first approved by the Department of Administrative Services staff and are reviewed for: consistency with the Consolidated Plan and Annual Action plan, overall activity eligibility, meeting a national objective, adherence to all regulations, consistency with the housing analysis and the City’s Master Plan, citizen input, capacity of staff, timeliness expectations, priorities of City Council and the City Manager, the need for specific public services, and the expertise of all parties to complete the activity.

Once the projects are implemented, they are monitored to ensure compliance with appropriate mandates and directives. This includes but is not limited to: proper procurement practices, minority business outreach, Section 3 applicability, Davis-Bacon applicability, etc. This overall project monitoring is accomplished by having CDP ensure compliance, forwarding payment requests to the DAS and then to finance to be paid. This three-tiered approval process ensures all projects are eligible and payments are processed appropriately. In addition, all projects are reviewed on an ongoing basis to ensure the City is on track to reach goals specified in the Annual Action Plan. If the goals cannot be reached, adjustments will be made to the project in the following program year, or the project will be replaced where appropriate.

The City maintains a list of minority businesses and invites participation in HUD-funded activities at least annually. The City’s procurement officer keeps the approved contractor database open in order to give new businesses the chance to get on the City’s approved contractor list. In the process of soliciting new contractors, it is strongly encouraged that minority businesses apply. Further efforts to reach out will be accomplished by placing ads in the local newspaper and advising organizations such as the NAACP, the Ministerial Alliance and the United Way.

DAS uses subrecipients to implement programs and provide public services. The City offers a competitive process to compete for funds. Subrecipients are selected, trained and monitored to ensure program compliance regarding eligibility, national objective, and all appropriate regulations. This monitoring strategy will involve mandating quarterly progress reports from each subrecipient listing the amount of funding they have spent, the number of people served, the race and ethnicity of people served, and the income bracket of all people served. In addition to the quarterly progress reports, a representative form the City will perform at least one on-site visit per program year to each funded subrecipient. At the on-site visit, random files will be checked for overall compliance, accounting practices reviewed, and the funds allocated to them for the program year will be checked for timeliness.
Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

Anticipated CDBG PY2020: $733,171
Caps:  Planning/Admin @ 20% = $146,626
       Public Services @ 15% = $109,976

- Housing Revitalization (Eligible CDBG activity: Housing) $70,000
- Emergency Repair Program (PWC) $50,000
- SELF $20,000
- Public Services (Eligible CDBG activity: Public Service) $62,500
- Fair Housing (HOME) $7,000
- Legal Aid of Greater Cincinnati $15,000
- CBI $30,000
- CBI (Workforce Development) $30,000

- Public Facilities & Improvements (Eligible CDBG activity: Public Improvements) $434,537
- Street Resurfacing/ Beautification $434,537

- Grants Administration $146,626
- Planning/Program Administration – CDP $146,626
Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City administration recognizes that the City's annual entitlement and formula allocations are not sufficient to meet all of its needs, and that leveraging resources is critical to achieving the City's goals. The City will continue to cultivate funding partners who can match the City's investment of CDBG funds.

The City has worked closely with the Butler County Office of Community Development as a member of the County's Home Investment Partnership (HOME) Program. Historically, the City had occasionally solicited applications for owner-occupied rehabilitation projects for referral to the County program. The City has been successful in leveraging significant funds from the State Demolition Grant Program and will continue this effort.

Matching requirements have been satisfied with other eligible financial resources and/or in-kind services, and the City will continue to seek this type of matching as well as financial matches.

If appropriate, describe publicly-owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

The City is working with a development team to develop the Oakland neighborhood. Additional vacant lots and land may be identified that can contribute toward the larger work to be accomplished through Consolidated Plan. The City owns several vacant commercial properties and will work with Economic Development to find the best possible use for those properties.

Projects

AP-35 Projects – 91.220(d)
Introduction

The development of the Annual Action Plan involved consultation with those agencies involved in delivering housing and housing services within Middletown. Meetings and discussions were held between the staff of the City's Department of Administrative Services and other City Departments, as well as conducting meetings with appropriate housing and social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons. Public input was also solicited through focus groups, public hearings, and a web-based survey. All projects selected to receive funding meet objectives and goals set by the City to address housing and social needs.
Projects

<table>
<thead>
<tr>
<th>#</th>
<th>Project Name</th>
<th>Proposed Budget</th>
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<tbody>
<tr>
<td>1</td>
<td>Emergency Repair Program (SELF/PWC)</td>
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<tr>
<td>2</td>
<td>Workforce Development (CBI)</td>
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<tr>
<td>3</td>
<td>Fair Housing: HOME/Legal Aid</td>
<td>$22,000</td>
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<td>4</td>
<td>Community Activities (Youth Services)</td>
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<td>5</td>
<td>Oakland Beautification/Public Infrastructure</td>
<td>$434,537</td>
</tr>
<tr>
<td>6</td>
<td>Planning/Program Administration</td>
<td>$146,634</td>
</tr>
</tbody>
</table>

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

These projects are deemed to be of the highest priority and meet the greatest need. All allocation amounts and specific projects have been approved by City Council.

AP-38 Project Summary

Project Summary Information

- Focus on Oakland Neighborhood
  - Continue emergency home repair
    - SELF    $20,000
    - PWC     $50,000
  - Continue down payment assistance (HOME funds = $268,833)
  - Community improvements $434,537
    - Beautification/Street resurfacing
- Continue fair housing
  - HOME    $7,000
  - Legal Aid $15,000
- Community activities
  - CBI     $30,000
- Workforce development
  - CBI     $30,000
AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

Geographic Distribution

1. Area Name: The latest U.S. Census data and Comprehensive Housing Affordability Strategy (CHAS) data indicate that the City of Middletown qualifies as a low to moderate-income area on a citywide basis (56.54% of total households). The areas of racial concentration are primarily on the west and south sides of town. The City is made up of 38 individual neighborhoods. The City will initially focus the majority of activities in Oakland target neighborhood.

Area Type: All are low/mod neighborhoods as defined by HUD

Identify the neighborhood boundaries for this target area.

Identify the needs in this target area.

Oakland is home to several historic homes and older single-family dwellings. The site houses the former Carnegie library which is being repurposed into a mixed-use development as well as the site of the former middle school. Oakland has private reinvestment plans to rehab historic homes using historic tax credits. There is also interest in repurposing the former tax-exempt property owned by the schools into new housing that would generate property tax for the district. The City hopes to use public investment alongside the current private investment efforts to renovate this LMI target neighborhood.
Table 56 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

All funds and activities will be targeted at LMI areas and/or LMI households.
TO: Jim Palenick, City Manager

FROM: Susan Cohen, Director of Administrative Services

PURPOSE
To submit to City Council for legislative action the HUD 5-year Consolidated Plan for the period of 2020-2024; to authorize the City Manager to sign and submit the 2020-2024 Consolidated Plan, setting the program activities and amount of funding for CDBG with the U.S. Department of Housing and Urban Development (HUD).

BACKGROUND and FINDINGS
The City of Middletown has received funding through the CDBG Program since 1975. On a scheduled basis, the City prepares a Consolidated Plan which lists long term goals and objectives for CDBG funding within the City. Through May 1, 2020, the City will be operated under the 2015-2019 Consolidated Plan due to the difference between the calendar year the city uses for budgets and the financial/plan year used by HUD. Due to COVID 19, HUD relaxed deadlines and did not require new consolidated plans to be turned in by May 1. The submission of a Consolidated Plan and the associated yearly Action Plan must be approved by City Council and signed by the City Manager prior to submission to HUD.

A draft copy of the 2020-2024 Consolidated Plan was available for public viewing in the Department of Administrative Services. Public Hearings were held on March 3, 2020 and April 21, 2020. The City conducted focus group sessions with stakeholders and representatives of the community. A draft was also available on the City website with a link to provide emailed comments. There was a 30-day comment period.

The principal needs identified during this process are: 1) housing rehabilitation for both owner and renter units, 2) rental assistance for extremely low-income households threatened with homelessness, 3) public improvements to improve/revitalize neighborhoods, 4) demolition of dilapidated, unsafe, or abandoned properties, 5) small business assistance (loans, facades, training) 6) job training and education, and 7) assisting the homeless.

The new Consolidated Plan develops broad goals and objectives for the next 5 years based on public input and overall need. It also provides relevant data on a census tract basis in order to have statistical information available that shows where activities and strategies are needed most in the City. The goal of the five-year plan is to stabilize and protect “at-risk” neighborhoods, to continue demolition, rehabilitation, and redevelopment as possible in the remaining neighborhoods consistent with the
census data and the City’s Master Plan and to engage in structural improvements to otherwise “at-risk” neighborhoods. This plan is meant to coordinate and enhance the City’s housing and neighborhood development plan.

Subsequent to the passage by Council, the 2020-2024 Consolidated Plan (including public comments) will be submitted to the Columbus, Ohio HUD field office.

**ALTERNATIVES**

1) Pass the 2020-2024 Consolidated Plan as recommended by Staff.
2) Do not adopt the 2020-2024 Consolidated Plan.
3) Request changes to allocation.

Submissions must be received to HUD by September 24 in order to avoid penalty and jeopardize future funding of our HUD program.

**FINANCIAL IMPACT**

These funds are received yearly from HUD and are budgeted accordingly. There is no additional impact to general fund and no local match.

**EMERGENCY/NON EMERGENCY**

Emergency at the second reading in order to meet HUD Deadlines

**ATTACHMENTS**

2020-2024 Consolidated Plan
LEGISLATION
ITEM 3
ORDINANCE NO. O2020-44

AN ORDINANCE ADOPTING THE AMENDED 2020 ANNUAL ACTION PLAN AND DECLARING AN EMERGENCY.

WHEREAS, the City of Middletown has previously submitted to HUD an Annual Action Plan for FY 2020 which outlines how the City will spend its CDBG and HOME entitlement funds; and,

WHEREAS, since adoption of the FY 2020 Annual Action Plan, the City has been awarded Federal CARES Act funding to be used as CDBG funding for expenses related to the COVID-19 response prompting an amendment to the plan; and

WHEREAS, HUD guidelines for notifying the public of the amendment included advertising the amendment in the newspaper and posting it to the City website, and a five day period for public comment, all of which have been met; and

WHEREAS, City Council held a public hearing on the amendment on September 1, 2020;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The amended 2020 HUD Annual Action Plan, providing for the allocation of Federal CARES Act funding is approved for submission to HUD. The amendment shall be in a form substantially similar to Exhibit “A”, attached hereto. The City Manager, Law Director and such other appropriate and responsible officials are hereby authorized and directed to execute on behalf of the City of Middletown any necessary documents related to the amended annual action plan.

Section 2

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to submit the amended plan to HUD without delay, and shall take effect and be in force from and after its adoption.

__________________________
Nicole Condrey, Mayor

Adopted:____________

Attest:_________________________
Clerk of City Council
City of Middletown, Ohio
Substantial Amendment to FY 2019-2020 Action Plan

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  3. Evaluation of Past Performance ................................................................................................ 2
  4. Summary of Citizen Participation and Consultation Process .................................................. 3
  5. Public Notice ............................................................................................................................... 4
  6. Summary of Public Comments .................................................................................................. 4
  7. Summary of Comments not Accepted ....................................................................................... 4
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**HUD-424-M Funding Matrix**

The applicant must provide the funding matrix shown below, listing each program or program component for which HUD funding is being requested and submit this information with the application for federal financial assistance.

<table>
<thead>
<tr>
<th>Grant Program</th>
<th>HUD Share</th>
<th>Matching Funds</th>
<th>Carry-over CDBG Funds</th>
<th>Other Federal Share</th>
<th>State Share</th>
<th>Local/Tr ibal Share</th>
<th>Other Funds</th>
<th>Program Income</th>
<th>Total</th>
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<tr>
<td>CDBG-CV</td>
<td>$431,289</td>
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<td></td>
<td>$431,289</td>
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</tbody>
</table>

**Grand Totals**

|                | $431,289  |                |                      |                    |             |                     |             |                | $431,289 |
Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction
The City of Middletown is proposing a Substantial Amendment to the Fiscal Year 2019-2020 CDBG Action Plan. The Substantial Amendment is in response to and under the direction of HUD to disperse a supplemental CDBG funding to prevent, prepare for, and respond to coronavirus (CDBG-CV grants). The Coronavirus Aid, Relief and Economic Security Act (CARES ACT) has made $431,289 available to the City of Middletown.

2. Summarize the objectives and outcomes identified in the Plan
This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The City of Middletown has prepared a strategy for addressing the impacts of the Coronavirus pandemic on the City of Middletown.

See Table 9 under AP 38 Projects Summary.

3. Evaluation of past performance
This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Middletown continues to monitor and evaluate the performance of the City’s CDBG Programs to ensure regulatory compliance and strong impact. The following list delineates some of the accomplishments outlined in the 2018-19 CAPER:

- Code enforcement staff completed 8,551 property inspections, identifying 7,328 property violations in LMI areas. All property violations were resolved either voluntarily by the homeowner or contractually. Repair of deferred maintenance housing violations ranged from minor painting to installation of a new roof.
- 45 emergency repairs were made for LMI households through People Working Cooperatively;
- SELF assisted 80 households with minor home repair;
- Legal representation was provided through Legal Aid for tenant/landlord, foreclosure, and fair housing issues for 42 LMI households;
- Fair housing testing and education was provided by Housing Opportunities Made Equal who assisted 20 households with fair housing complaints, educated 50 LMI residents, and trained 20 real estate agents;
- CBI provided an ongoing evening activities program at the community center that served more than 200 teens;
- Six units were demolished with CDBG dollars to eliminate blight in LMI areas.
4. **Summary of Citizen Participation Process and consultation process**

*Summary from citizen participation section of plan.*

The City has developed a detailed Citizen Participation Plan, which encourages the participation of all citizens and emphasizes the involvement of low to moderate income persons, particularly where housing and community development funds are spent. This Amendment is the direct result of the Coronavirus Pandemic, a Federal Emergency which is an Urgent Need. Public participation during a Federal Emergency is determined by HUD. The Coronavirus Aid, Relief and Economic Security Act (CARES Act) requires a public review period of a minimum of 5 days to obtain citizen input on the projects or strategy proposed during the Coronavirus Crisis. The Citizen Participation Plan is available for public inspection on the City of Middletown’s website at [www.cityofmiddletown.org](http://www.cityofmiddletown.org).

In accordance with the City’s Citizen Participation Plan, the following hearing was conducted for the development of the FY 2019-2020 CDBG Action Plan Substantial Amendment:

- Public Hearing (Middletown City Council): August 4, 2020
- Five-Day Public Review Period: July 27 - 31, 2020

A notice was published in the Journal News announcing the public hearing before the City Council and announced the five-day public comment period. The Draft Substantial Amendment was available for public review on the City of Middletown’s website.

The City welcomed any written recommendations, suggestions, or other input. Any opinions or comments related to the Substantial Amendment were to be remitted to Comments may be remitted to idah@cityofmiddletown.org or dropped off or mailed to: City of Middletown Department of Administrative Services, Attn: Substantial Amendment Comments, 1 Donham Plaza Middletown, OH 45042.
5. **Summary of public comments**

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

The City of Middletown did not receive any public comments related to the Substantial Amendment.

6. **Summary of comments or views not accepted and the reasons for not accepting them**

The City of Middletown did not receive any public comments related to the Substantial Amendment and therefore did not reject any comments.

7. **Summary**

The City of Middletown FY 2019-2020 CDBG Action Plan Substantial Amendment was considered by the Middletown City Council on August 4, 2020. In accordance with the Citizen Participation Plan, notice of the public hearing and five-day comment period were published in the Journal News and posted on the City’s website. A draft copy of the FY 2019-2020 CDBG Action Plan Substantial Amendment was available for public review at the City building as well as on the city’s website.
PR-05 Lead & Responsible Agencies – 91.200(b)

1. **Agency/entity responsible for preparing/administering the Consolidated Plan**

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

<table>
<thead>
<tr>
<th>Agency Role</th>
<th>Name</th>
<th>Department/Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead Agency</td>
<td>MIDDLETOWN</td>
<td></td>
</tr>
<tr>
<td>CDBG Administrator</td>
<td>MIDDLETOWN</td>
<td>Department of Administrative Services</td>
</tr>
<tr>
<td>HOME Administrator</td>
<td>MIDDLETOWN</td>
<td>Department of Administrative Services</td>
</tr>
</tbody>
</table>

**Table 1 – Responsible Agencies**

**Narrative**

The Community Development Division of the Department of Administrative Services is the lead agency for the completion of the Consolidated Plan and the implementation of the Annual Action Plan, as well as the responsible party for the processing and distribution of federal funds under the CDBG program, once allocated by the federal government and approved by the City Council.

The City contracts with Community Development Professionals to assist in grant administration and program implementation. Other offices and agencies responsible for executing and administering programs covered by the Consolidated Plan include the City’s Department of Financial Services, Building Inspections, Code Enforcement, Parks and Recreation, Capital Improvement Program, and Planning and Zoning.

**Consolidated Plan Public Contact Information**

Susan Cohen, Director of Administrative Services
City of Middletown
One Donham Plaza
Middletown, Ohio 45042
Tel: 513-425-7950
Fax: 513-425-7921
e-mail: susanc@cityofmiddletown.org
1. Introduction

The development of this Substantial Amendment included a public hearing as well as consultation with public and private agencies that provide assisted housing, health services, mental health services, and social services. In addition, organizations involved in the COVID-19 response in the community were consulted.

It should also be noted that City staff members and representatives through the City’s partner, Community Development Professionals, serve on various committees concerned with the needs of special populations in the County, including Butler County Land Bank, Butler County Housing and Homeless Coalition, Region 14 Homeless Planning Board, and Butler County Homeowner Preservation. The City has also been invested in COVID-19 response that include Butler County Emergency Management Agency, Butler County General Health District and Middletown’s Public Health Officer. Through on-going involvement, the City keeps apprised of community-based needs and supports initiatives and efforts to meet identified needs and has paid particular attention to the impact COVID-19 has had on the local community and its citizenry.

Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

The City of Middletown is part of Ohio’s Balance of State Continuum of Care (BOSCOC). BOSCOC is comprised of the 80 rural counties in Ohio, covers all regions of the state, and represents diverse populations, needs, and capabilities. The Ohio Development Services Agency serves as the lead agency for the Balance of State and partners with COHHIO (Coalition on Housing and Homelessness in Ohio) to lead state-wide collaboration around issues of affordable housing and homeless services. To better facilitate funding allocation, local coordination and planning efforts, ODSA has led efforts to regionalize homeless services around regional Continua of Care (CoC). CoC’s are also a vehicle to facilitate stronger compliance with HUD regulations around coordinated entry and housing first models. Middletown participates in two local CoC’s: Region 14 Homeless Planning Board, which includes participation from Butler, Warren and Clermont Counties, as well as the county-specific CoC, Butler County Housing and Homeless Coalition. These local CoCs address community level planning, identify service gaps, and plan and prioritize new and renewed homeless assistance projects.
Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Butler County is the grantee through HUD’s CoC program and provides 70 PSH vouchers to chronically homeless individuals and families. The local CoC is managed through the Butler County Housing and Homeless Coalition and through participation in Region 14 with Ohio’s Balance of State.

**Homelessness:** The Butler County Housing and Homeless Coalition is comprised of local government entities and nonprofit providers working in coordination on homelessness. The members include the cities of Hamilton and Middletown and Butler County as well as Butler Metropolitan Housing Authority, Butler Behavioral Health, Transitional Living, Community Behavioral Health, Legal Aid, Sojourner Recovery Services, Serve City, Family Promise, YWCA, Emergency Money Fund, Freedom House, Community Development Professionals, Veterans Services Commission, and Butler County Success. This group provides multiple services to area homeless including not only shelter, but also wrap around services such as transportation, employment, mental health, and substance abuse services. The VA and Veterans Services Commission both work to address issues of homelessness among veterans and coordinate with other providers to ensure a proactive approach to ending veteran homelessness.

**Chronic Homelessness:** Butler County’s chronic homeless number has dropped significantly as a result of decreasing the gap between need and available housing for the homeless. This has been accomplished through the collective work of providers involved in BCHHC. In addition to 70 PSH vouchers, two transitional housing developments: CHOICES and Shekinah serve the chronically homeless. Persons experiencing chronic homelessness are always prioritized for available housing units. A work group from BCHHC meets monthly to prioritize the waiting list for any available units to ensure chronically homeless individuals are prioritized for all available housing units. The City of Middletown, in conjunction with regional partners in the Butler County Housing and Homeless Coalition will continue to work collaboratively to identify gaps in service to the chronically homeless and provide outreach and appropriate social services to fill identified gaps.

**Homeless Prevention:** Services offered to residents of Middletown and Butler County include the Emergency Money Fund, Housing Crisis Response Program administered regionally through Warren Metropolitan Housing, and emergency funds available through the Salvation Army. There are also funds available for emergency rent and utility payment through SELF, the local Community Action Agency. Additionally, BMHA prioritizes families at risk for homelessness for available public housing units and housing choice vouchers. BCHHC works with mental health and treatment providers through the Butler County Mental Health and Recovery Services Board to provide wraparound services to those most at risk of homelessness.

**Discharge Coordination Policy:** The state of Ohio has a Homeless Management Information System (HMIS) to coordinate agencies across the state of Ohio and allow providers to manage discharge for persons receiving homeless services. A coordinated intake protocol enables all providers to document information about individuals consistently and document housing outcomes appropriately. The local CoC works with emergency responders, law enforcement, nonprofits, emergency room hospital system and crisis teams to ensure there is
a continuum of care for anyone in crisis who is facing homelessness. The team works to discharge in accordance with agreed protocol and policy for the CoC.

describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

N/A

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

<table>
<thead>
<tr>
<th></th>
<th>Agency/Group/Organization</th>
<th>Butler County Housing and Homeless Coalition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Agency/Group/Organization Type</td>
<td>Services - Housing</td>
</tr>
<tr>
<td></td>
<td>What section of the Plan was addressed by Consultation?</td>
<td>Housing Programs</td>
</tr>
<tr>
<td></td>
<td>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</td>
<td>Inquiries</td>
</tr>
<tr>
<td>2</td>
<td>Agency/Group/Organization</td>
<td>Economic Development Department</td>
</tr>
<tr>
<td></td>
<td>Agency/Group/Organization Type</td>
<td>Community Services</td>
</tr>
<tr>
<td></td>
<td>What section of the Plan was addressed by Consultation?</td>
<td>Economic Development</td>
</tr>
<tr>
<td></td>
<td>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</td>
<td>Inquiries</td>
</tr>
<tr>
<td>3</td>
<td>Agency/Group/Organization</td>
<td>Public Health</td>
</tr>
<tr>
<td></td>
<td>Agency/Group/Organization Type</td>
<td>Community Services</td>
</tr>
<tr>
<td></td>
<td>What section of the Plan was addressed by Consultation?</td>
<td>Non-Homeless Special Needs</td>
</tr>
<tr>
<td></td>
<td>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</td>
<td>Inquiries</td>
</tr>
</tbody>
</table>
Identify any Agency Types not consulted and provide rationale for not consulting

To the best of its ability, the City has been in contact with all known agencies and organizations involved in activities that are relevant to CDBG activities and programs.

Other local/regional/state/federal planning efforts considered when preparing the Plan

<table>
<thead>
<tr>
<th>Name of Plan</th>
<th>Lead Organization</th>
<th>How do the goals of your Strategic Plan overlap with the goals of each plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuum of Care</td>
<td>Butler County Housing and Homeless Coalition</td>
<td>The planning goals of Middletown’s ConPlan are complementary to the CoC’s work to serve displaced persons and families.</td>
</tr>
<tr>
<td>Consolidated Plan</td>
<td>Butler County</td>
<td>The planning goals of Middletown’s ConPlan are complementary to the Consolidated Plan for Butler County.</td>
</tr>
<tr>
<td>Region 14 Housing Plan</td>
<td>Warren Metropolitan Housing Authority</td>
<td>The goals are complementary to support the Regional CoC’s work to serve displaced persons and families.</td>
</tr>
</tbody>
</table>

Table 2 - Other local / regional / federal planning efforts

Narrative (optional)
AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation

   Summarize citizen participation process and how it impacted goal-setting

The City considers the involvement of its low- and moderate-income residents to be essential to the development and implementation of its Annual Action Plans including this Substantial Amendment.

As noted in PR-10, Consultation, a well-publicized public hearing was held on August 4, 2020 at a City Council meeting at City Hall, One Donham Plaza. This session gave an opportunity for the public to offer input in the course of Plan preparation.

The City ensures that all Public Hearings are held at times and locations convenient to potential and actual beneficiaries and with accommodations for persons with disabilities. Upon request, in advance of the meeting, the City makes accommodations for those individuals in need of special assistance. The City also provides technical assistance workshops for all interested in the programs.

The Citizen Outreach Participation Table below provides details about the various outreach efforts.

### Citizen Participation Outreach

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Mode of Outreach</th>
<th>Target of Outreach</th>
<th>Summary of response/attendance</th>
<th>Summary of comments received</th>
<th>Summary of comments not accepted and reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Public Meeting</td>
<td>Non-targeted/broad community</td>
<td>None Received</td>
<td>None Received</td>
<td>None Received</td>
</tr>
<tr>
<td>2</td>
<td>Newspaper Ad</td>
<td>Non-targeted/broad community</td>
<td>None Received</td>
<td>None Received</td>
<td>None Received</td>
</tr>
<tr>
<td>3</td>
<td>Internet Outreach</td>
<td>Non-targeted/broad community</td>
<td>None Received</td>
<td>None Received</td>
<td>None Received</td>
</tr>
<tr>
<td>4</td>
<td>Plan is available at</td>
<td>Non-targeted/broad community</td>
<td>None Received</td>
<td>None Received</td>
<td>None Received</td>
</tr>
</tbody>
</table>

Table 4 – Citizen Participation Outreach
Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

The City of Middletown is expected to receive $431,289 of CDBG-CV funding.

Anticipated Resources

<table>
<thead>
<tr>
<th>Program</th>
<th>Source of Funds</th>
<th>Uses of Funds</th>
<th>Expected Amount Available Year 1</th>
<th>Expected Amount Available Remainder of ConPlan</th>
<th>Narrative Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG</td>
<td>public - federal</td>
<td>Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services</td>
<td>431,289 0 0 431,289 0</td>
<td>The City of Middletown will seek to utilize its federal allocation of CDBG-CV funds to meet its action plans goals in the most efficient and effective way possible.</td>
<td></td>
</tr>
</tbody>
</table>

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City will leverage CDBG-CV funds to the greatest extent possible through intentional and proactive communication and coordination of use of funds with other jurisdictions and community partners. To the greatest extent feasible the City will coordinate with other recipients of CARES Act Funds to ensure there is not duplication of services and to minimize replication of services and programs and response to COVID-19 in the City of Middletown.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

N/A
## Annual Goals and Objectives
### AP-20 Annual Goals and Objectives
#### Goals Summary Information

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Goal Name</th>
<th>Start Year</th>
<th>End Year</th>
<th>Category</th>
<th>Geographic Area</th>
<th>Needs Addressed</th>
<th>Funding</th>
<th>Goal Outcome Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Housing Revitalization</td>
<td>2019</td>
<td>2020</td>
<td>Affordable Housing</td>
<td>Citywide</td>
<td>Provide Safe, Affordable Housing Opportunities</td>
<td>CDBG: $0</td>
<td>Rental units rehabilitated</td>
</tr>
<tr>
<td>2</td>
<td>Neighborhood Revitalization</td>
<td>2019</td>
<td>2020</td>
<td>Affordable Housing</td>
<td>Citywide</td>
<td>Clearance and Demolition</td>
<td>CDBG: $0</td>
<td>Buildings Demolished</td>
</tr>
<tr>
<td>3</td>
<td>Public Services</td>
<td>2019</td>
<td>2020</td>
<td>Non-Housing Community Development</td>
<td>Citywide</td>
<td>Public Service Programs, short-term rental assistance and/or mortgage assistance for those residents who lost jobs due to COVID-19; partnership with local school district to make internet access available to LMI families in response to remote learning due to COVID-19.</td>
<td>CDBG: $225,000</td>
<td>Public service activities other than Low/Moderate Income Housing Benefit: 250 households assisted</td>
</tr>
<tr>
<td>4</td>
<td>Fair Housing</td>
<td>2019</td>
<td>2020</td>
<td>Non-Housing Community Development</td>
<td>Citywide</td>
<td>Fair Housing</td>
<td>CDBG: $0</td>
<td>Public service activities other than Low/Moderate Income Housing</td>
</tr>
<tr>
<td>5</td>
<td>Public Facilities Improvements</td>
<td>2019</td>
<td>2020</td>
<td>Non-Housing Community Development</td>
<td>Citywide</td>
<td>Public Improvements/Infrastructure, including streets</td>
<td>CDBG: $0</td>
<td>Public Facility or Infrastructure Activities other than Low/Moderate Income Housing</td>
</tr>
<tr>
<td>Sort Order</td>
<td>Goal Name</td>
<td>Start Year</td>
<td>End Year</td>
<td>Category</td>
<td>Geographic Area</td>
<td>Needs Addressed</td>
<td>Funding</td>
<td>Goal Outcome Indicator</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------</td>
<td>------------</td>
<td>----------</td>
<td>---------------------------------</td>
<td>-----------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>-------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>6</td>
<td>Homeless Activities</td>
<td>2019</td>
<td>2020</td>
<td>Homeless</td>
<td>Citywide</td>
<td>Homeless Activities</td>
<td>CDBG: $0</td>
<td>Homeless households assisted</td>
</tr>
<tr>
<td>7</td>
<td>Economic Development</td>
<td>2019</td>
<td>2020</td>
<td>Non-Housing Community Development</td>
<td>Citywide</td>
<td>Economic Development; assist businesses in Middletown impacted by COVID-19</td>
<td>CDBG: $175,000</td>
<td>Businesses assisted: 5 Businesses Assisted</td>
</tr>
</tbody>
</table>

Table 6 – Goals Summary
<table>
<thead>
<tr>
<th></th>
<th>Goal Name</th>
<th>Goal Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Housing Revitalization</td>
<td>Housing Revitalization — Emergency home repairs, home rehabilitation</td>
</tr>
<tr>
<td></td>
<td></td>
<td><em>The City does not anticipate using CDBG-CV funds for activities related to this goal.</em></td>
</tr>
<tr>
<td>2</td>
<td>Neighborhood Revitalization</td>
<td>Code enforcement, demolition; neighborhood improvements</td>
</tr>
<tr>
<td></td>
<td></td>
<td><em>The City does not anticipate using CDBG-CV funds for activities related to this goal.</em></td>
</tr>
<tr>
<td>3</td>
<td>Public Services</td>
<td>Programs for low-income resident, including the elderly, youth, and persons with disabilities; CDBG-CV funds will be used to prevent eviction and foreclosure for qualifying residents affected by COVID-19. CDBG-CV funds will also be used to ensure LMI families have access to internet during remote learning caused by COVID-19.</td>
</tr>
<tr>
<td>4</td>
<td>Fair Housing</td>
<td>Fair Housing programs and services; support for legal aid</td>
</tr>
<tr>
<td></td>
<td></td>
<td><em>The City does not anticipate using CDBG-CV funds for activities related to this goal.</em></td>
</tr>
<tr>
<td>5</td>
<td>Public Facilities Improvements</td>
<td>Repairs and Improvements to public facilities</td>
</tr>
<tr>
<td></td>
<td></td>
<td><em>The City does not anticipate using CDBG-CV funds for activities related to this goal.</em></td>
</tr>
<tr>
<td>6</td>
<td>Homeless Activities</td>
<td>Homeless prevention, emergency shelters, transitional housing.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><em>The City does not anticipate using CDBG-CV funds for activities related to this goal.</em></td>
</tr>
<tr>
<td>7</td>
<td>Economic Development</td>
<td>Façade programs, loan programs, technical assistance and overall small business assistance.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The City will use CDBG-CV funds to assist small business owners impacted by COVID-19.</td>
</tr>
</tbody>
</table>
Project

AP-35 Projects – 91.220(d)

Introduction

The projects listed below are the proposed projects in response to the coronavirus pandemic. Those projects that will be funded through CDBG-CV are listed below.

<table>
<thead>
<tr>
<th>#</th>
<th>Project Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Public Service - Internet access for LMI families</td>
</tr>
<tr>
<td>2</td>
<td>Economic Development – Small Business Assistance</td>
</tr>
<tr>
<td>3</td>
<td>Public Service - Short-term rental/mortgage assistance</td>
</tr>
<tr>
<td>4</td>
<td>Planning and Administration</td>
</tr>
</tbody>
</table>

Table 7 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The residents of the City were significantly impacted by COVID-19. Immediate job loss was experienced as well as accompanying economic impact with paying rent and mortgage and small businesses who temporarily were forced to shutter their doors. The Middletown City Schools have opted for a remote-learning option for students for Fall 2020. Many LMI families do not have access to internet. Activities related to meeting these urgent needs were identified and prioritized for use of CDBG-CV funds.
### AP-38 Project Summary

#### Project Summary Information

<table>
<thead>
<tr>
<th>Table 9 - Project Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong></td>
</tr>
<tr>
<td><strong>Target Area</strong></td>
</tr>
<tr>
<td><strong>Goals Supported</strong></td>
</tr>
<tr>
<td><strong>Needs Addressed</strong></td>
</tr>
<tr>
<td><strong>Funding</strong></td>
</tr>
<tr>
<td><strong>Description</strong></td>
</tr>
<tr>
<td><strong>Target Date</strong></td>
</tr>
<tr>
<td><strong>Estimate the number and type of families that will benefit from the proposed activities</strong></td>
</tr>
<tr>
<td><strong>Location Description</strong></td>
</tr>
<tr>
<td><strong>Planned Activities</strong></td>
</tr>
<tr>
<td><strong>2</strong></td>
</tr>
<tr>
<td><strong>Target Area</strong></td>
</tr>
<tr>
<td><strong>Goals Supported</strong></td>
</tr>
<tr>
<td><strong>Needs Addressed</strong></td>
</tr>
<tr>
<td><strong>Funding</strong></td>
</tr>
<tr>
<td><strong>Description</strong></td>
</tr>
<tr>
<td>Project Name</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td><strong>Target Area</strong></td>
</tr>
<tr>
<td><strong>Goals Supported</strong></td>
</tr>
<tr>
<td><strong>Needs Addressed</strong></td>
</tr>
<tr>
<td><strong>Funding</strong></td>
</tr>
<tr>
<td><strong>Description</strong></td>
</tr>
<tr>
<td><strong>Target Date</strong></td>
</tr>
<tr>
<td><strong>Estimate the number and type of families that will benefit from the proposed activities</strong></td>
</tr>
<tr>
<td><strong>Location Description</strong></td>
</tr>
<tr>
<td><strong>Planned Activities</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Planning and Administration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Target Area</strong></td>
<td>Citywide</td>
</tr>
<tr>
<td><strong>Goals Supported</strong></td>
<td>Planning/Admin</td>
</tr>
<tr>
<td><strong>Needs Addressed</strong></td>
<td>Planning/Admin</td>
</tr>
<tr>
<td><strong>Funding</strong></td>
<td>$31,289 CDBG-CV</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Funding to administer additional CDBG-CV fund</td>
</tr>
<tr>
<td><strong>Target Date</strong></td>
<td>9/1/20 – 5/31/21</td>
</tr>
<tr>
<td><strong>Estimate the number and type of families that will benefit from</strong></td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Location Description</strong></td>
<td>Citywide</td>
</tr>
<tr>
<td><strong>Planned Activities</strong></td>
<td>Prevent, prepare for, and respond to coronavirus</td>
</tr>
</tbody>
</table>
AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The City of Middletown has identified qualified census tracts and target neighborhoods, defined as those neighborhoods with more than 51% low and moderate income residents. Target areas are identified using income data available through the U.S. Census; any block group that was designated at 51% or more LMI was included in a target area. The City typically uses the majority of its CDBG funds in target areas; however, the City will utilize CDBG-CV funds to income qualifying businesses, individuals and families throughout the City of Middletown.

Geographic Distribution

<table>
<thead>
<tr>
<th>Target Area</th>
<th>Percentage of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citywide</td>
<td>100</td>
</tr>
</tbody>
</table>

Table 8 - Geographic Distribution
Rationale for the priorities for allocating investments geographically

The City is using its allocation of CDBG-CV funds to meet the urgent needs of its citizenry classified in HUD terms as *high priority*. While the City typically prioritizes use of its CDBG resources to target areas in the city, CDBG-CV funds will be used city-wide to meet the priority needs identified in this Substantial Amendment.

HUD defines a community’s priority need levels as follows:

- **High Priority**: Activities to address this need will be funded by the City during the five-year period.
- **Medium Priority**: If funds are available, activities to address this need may be funded during the five-year period. Also, the City may take other actions to help this group locate other sources of funds.
- **Low Priority**: The City will not directly fund activities using funds to address this need during the five-year period, but other agencies’ applications for federal assistance might be supported and found to be consistent with this plan.
- **No Such Need**: The City finds there is no need or that this need is already substantially addressed. The City will not support other entities applications for federal assistance for activities where no such need has been identified.
Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City of Middletown is working with the Butler County Housing and Homeless Coalition to rehouse individuals and families experiencing homelessness. No CDBG-CV funds are being allocated to meet this need. Funds from other sources are being used to meet this need.

Table 11 - One Year Goals for Affordable Housing by Support Requirement

<table>
<thead>
<tr>
<th>One Year Goals for the Number of Households to be Supported</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeless</td>
</tr>
<tr>
<td>Non-Homeless</td>
</tr>
<tr>
<td>Special-Needs</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Table 12 - One Year Goals for Affordable Housing by Support Type

<table>
<thead>
<tr>
<th>One Year Goals for the Number of Households Supported Through</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental Assistance</td>
</tr>
<tr>
<td>The Production of New Units</td>
</tr>
<tr>
<td>Rehab of Existing Units</td>
</tr>
<tr>
<td>Acquisition of Existing Units</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Discussion

Other local dollars are being used to meet this need.
AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The City is partnering with Butler County Housing and Homeless Coalition to ensure households experiencing homelessness are rehoused. Other local funds are being used to meet this need and no CDBG-CV funds are allocated for this purpose.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The City of Middletown participates in the Butler County Housing and Homeless Coalition and works with this consortium of providers to address issues of homelessness in the community.

Addressing the emergency shelter and transitional housing needs of homeless persons

Middletown is home to two congregate shelters for those experiencing homelessness: Hope House Men’s Shelter and Hope Center for Women and Children. Middletown also is home to SHALOM, a seasonal emergency shelter for individuals. All three shelters participate in the broader continuum of care which is overseen by the Butler County Housing and Homeless Coalition. BCHHC is the convener of all agencies, housing and shelter services and is the primary conduit by which the City addresses needs of homelessness in the community. The City will work in partnership with BCHHC to support the rehousing of individuals or families transitioning from congregate shelters into permanent housing. NO CDBG-CV funds will be used for this purpose.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

BCHHC is the convener of all agencies, housing and shelter services for those experiencing homelessness and is the primary conduit by which the City addresses needs of homelessness in the community. The City has been working alongside the BCHHC to ensure families and individuals experiencing homelessness are rehoused as quickly as possible from congregate shelters into permanent housing.
Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The City will utilize a portion of its CDBG-CV allocation to assist households from experiencing homelessness. $175,000 is allocated to assist families with rent and mortgage payments, specifically those who have experienced job loss due to COVID-19.
AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

The City of Middletown has long been a champion of affordable housing and has created public policy that is favorable to affordable housing development and investment. The largest barrier to quality affordable housing in Middletown is housing stock that is old and valued significantly lower than surrounding areas. While this is a priority for Middletown in general, the City does not intend to use CDBG-CV funds to address issues of affordable housing.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The City has strong policy in favor of affordable housing. It does not intend to use CDBG-CV funds to meets its affordable housing goals.

Discussion:

See discussion above
AP-85 Other Actions – 91.220(k)

Introduction:

The greatest challenge to meeting underserved needs in the coming year will be meeting the increased need for program activities with a limited amount of funding. To overcome this significant challenge, the City will work more efficiently, seek a greater level of collaboration with other agencies and organizations, and aggressively seek opportunities to leverage funds.

Actions planned to address obstacles to meeting underserved needs

Like most communities, a major obstacle to meeting the needs of the community is funding. Over the years, community partnerships with county, state, and federal agencies have been integral to meeting the needs of the underserved community. During the FY 2019-2020 program year, the City intends to aggressively continue these relationships as well as foster new ones to ensure that the needs of the community are adequately fulfilled.

The City promotes its housing and community service programs in the areas with the highest concentration of low and moderate income households to address the continuing needs of the underserved population. The City will use its network of community-based organizations, nonprofit, Chamber of Commerce, local newspaper, City newsletter, and community events to promote its activities and services.

Actions planned to foster and maintain affordable housing

As articulated in the Consolidated Plan, the City will continue coordination and collaboration with the Butler Metropolitan Housing Authority, Butler County Land Bank, Butler County Housing and Homeless Coalition and other local nonprofits and public providers to foster and maintain affordable housing through:

- Mortgage assistance programs
- Coordination with neighborhood networks to elaborate on the needs of the community
- Code enforcement
- Home Improvement Programs
- Infrastructure improvements
- Provision of Fair Housing Services

CDBG-CV funds will not be used toward this end.

Actions planned to reduce lead-based paint hazards

The Substantial Amendment does not include any activities to reduce lead-based paint hazards.
**Actions planned to reduce the number of poverty-level families**

The City takes a balanced approach to community revitalization. The economic development team works to stabilize and attract small business in an effort to create jobs and improve the local economy. Key stakeholders such as Community Building Institute, SELF and Middletown City Schools are working on issues of workforce development and life skills training. CDBG provides critical funding for large-scale infrastructure improvements and removal of blight but relies on its community partners to engage in meeting critical basic needs such as healthcare, childcare, housing, and transportation. The alleviation of poverty is complicated and requires a multi-faceted approach. The City works with community partners to identify educational, life skills and training needs and provide opportunities for self-empowerment that will enable low- and moderate-income residents to become and remain self-sufficient and economically independent. The City seeks to support efforts to train youth and develop employment programs that will lead to livable wage job opportunities for its residents.

CDBG-CV funds will be used to prevent homelessness for those families struggling as a result of job loss from COVID-19. CDBG-CV funds will also be used to ensure LMI families with children in public school have access to internet. CDBG-CV funds will also be used to help struggling small businesses, particularly those who had to temporarily shutter their doors due to COVID-19.

**Actions planned to develop institutional structure**

The City of Middletown will continue to seek opportunity to continue to improve the systemic structures in the community. Through its partnerships with public and private organizations and its continued involvement in community collaborations and initiatives, the City will continue to identify gaps and look for creative solutions to improve the system for its residents.

**Actions planned to enhance coordination between public and private housing and social service agencies**

The City plans to continue its involvement in the Butler County Housing and Homeless Coalition and work with other providers to coordinate housing initiatives and social service provision. The City has been a leader in efforts to identify coordination opportunities and address in services. The City will continue to work closely with Butler County in several areas including social services, workforce development and mental health/substance use services. The City will continue to seek to establish new relationships with the private sector to accomplish economic and community development activities.

**Discussion**

The City of Middletown, Department of Administrative Services, will take the key role for implementation and monitoring its housing and community development projects to ensure long-term compliance with program requirements and comprehensive planning requirements. The City’s partnership with Community...
Development Professionals will increase its ability to establish strong systems and ensure there are regular and ongoing monitoring visits with sub-recipients as needed as well as desk reviews, and financial and performance monitoring on a quarterly basis.

Monitoring of all City operated projects will be done through desk reviews, periodic reviews of the Action Plan and Consolidated Plan, reviews of funding applications, and through compliance with all applicable federal regulations.

Each housing program funded by the City of Middletown will be reviewed for compliance with federal regulations such as Section 504/Handicapped Accessibility, Lead Based Paint requirements, Housing Quality Standards (IPMC), Davis-Bacon, Section 3, and other federal requirements.
Program Specific Requirements

AP-90 Program Specific Requirements  91.220(l)(1,2,4)

Introduction:

No program income is anticipated.

Community Development Block Grant Program
(CDBG)  Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed  0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.

N/A
3. The amount of surplus funds from urban renewal settlements  N/A
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan  N/A
5. The amount of income from float-funded activities  N/A

Total Program Income:  N/A

Other CDBG Requirements

1. The amount of urgent need activities  431,289

2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.  100.00%
TO: Jim Palenick, City Manager  
FROM: Susan Cohen, Director of Administrative Services

LEGISLATION
TO AMEND CDBG 2020 ANNUAL ACTION PLAN
TO AUTHORIZE CDBG CARES ACT ALLOCATION

PURPOSE
To submit to City Council for legislative action an amendment to 2020 CDBG Annual Action plan to include allocation received from the CARES Act, for CDBG with the U.S. Department of Housing and Urban Development (HUD).

BACKGROUND and FINDINGS
The City of Middletown has received funding through the CDBG Program since 1975. Every 5 years, the City Submits a consolidated plan of how we would like to prioritize spending those funds. Each year, the City Submits an Annual Action plan which serves as a guide for how we intended to spend the funds in each particular year. A HUD plan year goes from May 1 to April 30 the next calendar year.

The City received additional CDBG funding particularly related to COVID 19 response through the federal CARES Act. In order to properly allocate and spend those dollars, the City must allocate the dollars to COVID related concerns and amend the appropriate related action plan for the program year in which they will be spent.

For this additional allocation, the City received $431,289.00 in addition to the regularly allocated funds. The City sought input from local community organizations to determine the best use of the funds. The matter will be before council for a public hearing on September 1, 2020 and any additional comments can be added to this submission. The draft amendment was advertised in the newspaper and posted on the City’s website for review. Pursuant to HUD Regulations there was a formal 5 day window for comments.

The proposed amendment allows to spend the City’s additional allocation on: Rental/Mortgage/Utility Assistance to households suffering COVID related income reductions, Small Business Assistance for COVID related reductions, as well as an allocation for the Middletown City Schools initiative to provide technology and internet for all students in the COVID school environment of distance learning.

Subsequent to the passage by Council, the 2020 Plan Amendment (including public comments) will be submitted to the Columbus, Ohio HUD field office.
**ALTERNATIVES**

1) Pass the 2020 Plan Amendment Allocation  
2) Do not adopt the Amendment to the Annual Action Plan  
3) Do not adopt the Amendment to request staff make changes to allocation.

Submissions must be received to HUD by September 24 in order to avoid penalty and jeopardize future funding of our HUD program.

**FINANCIAL IMPACT**

These funds are received yearly from HUD and are budgeted accordingly. There is no additional impact to general fund and no local match.

**EMERGENCY/NON EMERGENCY**

Emergency at the second reading in order to meet HUD Deadlines

**ATTACHMENTS**

2020 Substantial Amendment
LEGISLATION
ITEM 4
ORDINANCE NO. O2020-45

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR A SMALL BUSINESS ECONOMIC DEVELOPMENT GRANT WITH ANNIE UP BOUTIQUE.

WHEREAS, Annie Up Boutique is operating a retail store at 1391 Central Avenue; and

WHEREAS, Annie Up Boutique does not meet the requirements for the City’s Job Creation Incentive Grant program, but the City is interested in providing an incentive for the small business;

NOW, THEREFORE, BE IT ORDAINED, by City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into an agreement for a Small Business Economic Development Grant with Annie Up Boutique. The agreement shall be in a form substantially similar to Attachment “1”, and is subject to approval by the City Manager and Law Director.

This grant is contingent upon the sign being approved by the City’s Historic Commission. No grant funds can be released to Annie Up Boutique receives this approval for the sign and the grant agreement is signed by all parties.

Section 2

For said purposes, the Finance Director is hereby authorized to pay a sum not to exceed $2,850.00 from the Property Development Fund (Fund # 499).

Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st Reading:__________
2nd Reading:__________
Adopted:__________
Effective:__________

Attest:____________________
Clerk of the City Council
This agreement is made and entered into by and between the CITY OF MIDDLETOWN, OHIO, a municipality, with its main offices located at One Donham Plaza, Middletown, Ohio 45042 (hereinafter “the City”) and ANNIE UP BOUTIQUE, whose business address is located at 1391 Central Avenue, Middletown, Ohio 45044 (hereinafter “Grantee”).

WHEREAS, the City of Middletown has encouraged the creation of new jobs in the City by establishing a Job Creation Incentive Grant Program; and

WHEREAS, there are smaller business enterprises creating new jobs within the City, but do not create sufficient new jobs to qualify for the Job Creation Incentive Grant Program, such as Grantee; and

WHEREAS, the Grantee operates a retail store that specializes in biker apparel and parts in a space rented at 1391 Central Avenue (the “Property”); and

WHEREAS, the Grantee has requested economic assistance from the City; and

WHEREAS, the City’s Economic Development Incentive Team has investigated the request and has recommended to the Middletown City Council that the Grantee be provided a Small Business Economic Development Grant in accordance with the terms and conditions herein;

WHEREAS, the Small Business Economic Development Grant to Grantee will further the public purposes of job creation and preservation within the City and improve the economic welfare of the people of the City;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Grantee shall receive a one-time Small Business Economic Development Grant in the amount of $2,850.00 (the “Grant”) to be used towards the purchase of a new illuminated sign. The proposal and rendering are attached hereto as Exhibit “A”.

2. Grantee agrees that if the business ceases operation within 5 years of the date of the execution of this agreement, ownership of the sign will revert to the City.

3. Grantee shall provide to the City any information reasonably required by the City to evaluate Grantee’s compliance with the Agreement, including, but not limited to:

   a. Annual payroll at the project site;
   b. Number of employees working at the project site;
   c. Total money invested at the project site.
4. If (a) Grantee materially fails to have the sign installed and in use by December 31, 2020, or (b) the City determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Middletown may terminate or modify this agreement in writing. If the City moves forward with termination, the Grantee must repay the full amount of the Grant within 90 days of receipt of the notice of termination.

4. Grantee hereby certifies that at the time this agreement is executed, Grantee does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Grantee is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, Grantee currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Grantee. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

5. Grantee affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

6. Grantee and the City of Middletown acknowledge that this agreement has been approved by formal action of the Middletown City Council, Ordinance No. O2020-___. This agreement takes effect upon the signature of both parties. This agreement is not transferrable or assignable without the express, written approval of the City of Middletown.

7. The City of Middletown has developed a policy to ensure recipients of Small Business Economic Development Grants tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Grantee is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

8. Grantee affirmatively covenants that it has made no false statements to the City in the process of obtaining approval for this Grant. If any representative of Grantee has knowingly made a false statement to the City to obtain the Grant provided herein, Grantee shall be required to immediately return all benefits received under this Agreement and shall be ineligible for any future economic development assistance from the City. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to R.C. 2921.13(A)(4), which is punishable by a fine of not more than $1,000.00 and/or a term of imprisonment of not more than six months.
IN WITNESS WHEREOF, the parties have executed this agreement on the day written below their signatures.

CITY OF MIDDLETOWN

By: ______________________________
   James Palenick
   City Manager

Date: ____________________________

Approved as to form:

______________________________

Law Director

ANNIE UP BOUTIQUE

By: ______________________________
   Name: __________________________

Title: ____________________________

Date: ____________________________
So Easy Signs LLC
2890 S. Main St. Building F
Middletown, OH 45044
513-313-9858

Proposal
Prepared on 7/24/2020

<table>
<thead>
<tr>
<th>Description</th>
<th>Qty</th>
<th>Unit price</th>
<th>Total price</th>
</tr>
</thead>
<tbody>
<tr>
<td>- 2’ x 8’ Custom illuminated LED channel letters on 3&quot; wireway.</td>
<td>1 set</td>
<td>$2,172.58</td>
<td>$2,172.58</td>
</tr>
<tr>
<td>- On-site installation including all hardware and material (lift installation).</td>
<td>1 ea</td>
<td>$450.00</td>
<td>$450.00</td>
</tr>
</tbody>
</table>

*Pricing does not include electrical tie-in or wiring.*

<table>
<thead>
<tr>
<th>Subtotal</th>
<th>$2,622.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax</td>
<td>$170.43</td>
</tr>
<tr>
<td>Total</td>
<td>$2,792.43</td>
</tr>
</tbody>
</table>

Acceptance and agreement of proposal:

X ___________________________  Date:

*Pricing is valid for 90 days. Payment terms require 50% deposit prior to production with balance due upon installation/delivery.*
DATE: August 18, 2020

TO: Jim Palenick, City Manager

FROM: Chris Xeil Lyons, Economic Development Director, prepared by Alaina Geres, Economic Development Program Manager

PURPOSE
To authorize Small Business Entrepreneurial Assistance for Annie Up Boutique.

BACKGROUND and FINDINGS
Entrepreneur Andrea Booth opened up a new retail store in downtown Middletown at 1391 Central Avenue on Monday, July 13th – Annie Up Boutique. The store specializes in biker apparel and parts. The store is a dealer for Lucky 13 apparel and is also a consignment store for biker apparel and parts, such as Harley Davidson.

She has requested small business entrepreneurial assistance for start-up costs. The economic development department is recommending a grant in the amount of $2,850 to go towards a percentage of her signage costs.

She has used So Easy Signs for her current window decals and A-frame sign totaling $600 and has received a quote from them for an illuminated sign totaling $2,792.43. Quote and sign renderings attached. The quote does not include the electric tie-in as 3 Wire Electric will be doing that at no cost.

She will be taking the sign plans to the September 17th Historic Commission meeting for review and approval. No grant funds will be released until the Historic Commission has approved the sign plans.

The agreement will state that the sign will stay with the building. This type of illuminated sign can be modified for new tenants at half the original costs – per So Easy Signs – should Annie Up Boutique relocate.

ALTERNATIVES
No alternatives.

FINANCIAL IMPACT
Estimated Financial Impact - $2,850
499.990.52811 – CRA Payments

EMERGENCY/NON EMERGENCY
Non-emergency.
Proposed for: Annie Up Boutique  
1391 Central Ave.  
Middletown, OH 45042  

Attn: Andrea  

Job #: SES920264  

Project: Monument Sign  

Due date: TBD  

<table>
<thead>
<tr>
<th>Description</th>
<th>Qty</th>
<th>Unit price</th>
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</tr>
</tbody>
</table>

*Pricing does not include electrical tie-in or wiring.*

Acceptance and agreement of proposal:

X  

Subtotal: $2,622.00  

Tax: $170.43  

Total: $2,792.43  

*Pricing is valid for 90 days. Payment terms require 50% deposit prior to production with balance due upon installation/delivery.*
**SIGN & INSTALL SPECS.**

- **Quantity:** 1 channel letters on WIRE WAY
- **Size:** 8x2'
- **Type:** Channel letters LED lighted
- **Return:** 3" Returns Black
- **Substrate:** White Acrylic with black translucent vinyl boarder
- **Trim Cap:** 1" Black
- **Colors:** White faces

**Sign & Install Specs:**

- **Install:** Install new sign on building face tie into power provided
- **Posts:**
- **Color:** NA
- **Type:**
- **Scale:**

---

**FILE NAME:** Annie up Channel Letters 10

---

**Notes:** All images are copyrighted by So Easy Signs. The use of any image is prohibited unless prior written permission or payment is obtained. Design charges will result from use without permission or payment.

---

**Signature & Date:**

Image is a artist rendering of finished product size and color may vary/image is low resolution for email use only

©2016 So Easy Signs
LEGISLATION
ITEM 5
ORDINANCE NO. O2020-46

AN ORDINANCE AUTHORIZING COLLECTIVE BARGAINING AGREEMENTS WITH THE FRATERNAL ORDER OF POLICE LODGE 36 (PATROL OFFICERS AND SERGEANTS & LIEUTENANTS) FOR THE TERM NOVEMBER 1, 2019 THROUGH OCTOBER 31, 2021 AND DECLARING AN EMERGENCY.

BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The collective bargaining agreements for two years, November 1, 2019 through October 31, 2021, between the City and the Fraternal Order of Police Lodge 36, Patrol Officers unit and Sergeants & Lieutenants unit are hereby approved. The City Manager is authorized to execute said agreements, in a form substantially similar to Exhibits “A” and “B,” attached hereto.

Section 2

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to allow the collective bargaining agreements to be signed and distributed as soon as possible, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:______________

Attest:_______________________
Clerk of the City Council
DRAFT 9/3/2020

CONTRACT BETWEEN

THE CITY OF MIDDLETOWN

AND

F.O.P. – LODGE #36

(PATROL OFFICER’S BARGAINING UNIT)

November 1, 2015 – October 31, 2018
November 1, 2019 – October 31, 2021
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This Contract, made and entered into at Middletown, Ohio, by and between the City of Middletown, a Municipal Corporation, as Municipal Employer, hereinafter referred to as "City", and Lodge #36 Fraternal Order of Police, as the representative of Patrol Officers who are employed by the City of Middletown in the Police Division, hereinafter referred to as "Lodge #36";

Both of the parties to this Contract are desirous of reaching an amicable understanding with respect to the employer-employee relationship which exists between them and to enter into an agreement specifying rates of pay, hours of work, and conditions of employment; and

The parties to this contract agree that, where the contract deals with a particular subject, the contract takes precedence over sections of Ohio law, City ordinances, administrative regulations, and rules of the Chief of Police, unless specifically prohibited by Ohio law, court decision, or a decision by the State Employment Relations Board.

Where this contract does not speak to a particular subject, then the relevant section of Ohio law, City ordinance, Administrative Regulations or the rules of the Chief of Police shall prevail.

ARTICLE I – CONSIDERATION

A. Nondiscrimination. The parties agree that their respective policies will not violate the rights or discriminate against any Patrol Officers covered by this Contract because of sex, creed, color, age, national origin, association, affiliation, or non-association or in the application or interpretation of the provisions of the Contract.

AB. No Verbal Statement. The following constitutes an entire Contract between the parties; no verbal statement shall supersede any of its provisions.

BC. Compliance with Terms. It is agreed that all expenditures or compensation to be paid to Patrol Officers in accordance with this Contract must first meet the requirements and procedures required by law under the provisions of the Ohio Statutes.

ARTICLE II – RECOGNITION

The City recognizes Lodge #36 as the exclusive representative for all Patrol Officers of the Police Division, as defined in this paragraph, for the purpose of collective bargaining with the City on questions concerning wages, hours and other conditions of employment. The bargaining unit shall include all persons employed in the rank of Patrol Officers. Members of the bargaining unit are referred to hereinafter as "Members".
ARTICLE III – LODGE #36 ACTIVITIES

A. Lodge Negotiating Committee. Lodge #36 shall advise the City of the names of its negotiators. The number of negotiators designated for the bargaining unit of Patrol Officers and the bargaining unit of Sergeants and Lieutenants shall not exceed a total of seven (7). Five (5) representatives of the total of seven (7) shall be paid regular salary for time spent in negotiations during regular working hours; no payment will be made for negotiating time outside the representatives' normal workday. No more than three (3) representatives shall come from any one platoon or other subsection of the Police Division.

The name(s) of the duly chosen representatives of the bargaining unit shall be submitted to the City Manager or his designee and Police Chief sufficiently in advance of regularly scheduled bargaining meetings, so as to permit scheduling for continuity of operations within the department.

B. Union Activity. Lodge #36 shall have up to a total of 400 hours of Union business leave per agreement year, with full pay for the Union President and/or his designees to participate in conventions, pension business, educational conferences, grievance handling and to attend to the normal operating functions of the Union, excluding contract negotiations. The participation of more than two (2) members in the above activities under the provisions of this paragraph shall be subject to approval by the Chief of Police. Sufficient time off with pay will be deducted from the total hours so stated above on an hour for hour basis. Notice of five (5) working days will be given to the Chief of Police for the use of this time. There shall neither be a carryover nor an accumulation of unused leave to the next agreement year. Necessary contacts between the President and bargaining unit members shall be made during non-productive and off time where possible. In the event this is not reasonable, time may be deducted on an hour for hour basis from the total hours consistent with the policy above. No compensation shall be paid for any Union business conducted on their own time or days off. This does not pertain to private discussion between officers.

C. Bulletin Boards. The City shall provide bulletin board space for Lodge #36 use in the Day Room. Material posted thereon shall be the responsibility of the Lodge and shall relate only to Lodge meetings, elections, social events, reports of Committees or the Lodge Board of Directors and decisions affecting the Lodge or member(s) in the bargaining unit. Material placed on the bulletin board shall not contain anything political or controversial, or anything reflecting upon the City, any of its members or officers, or any labor organization among its members, and no material, notices or announcements which violate the provisions of this section shall be posted.

The City shall permit Lodge #36, by its officers, to use interdepartmental mail and telephone (local calls only) for union business. Lodge #36 shall have access to telephone (long distance calls), postal mail, reproduction equipment, and facsimile equipment; however, the actual costs of use of said equipment shall be paid by Lodge #36. The use of telephones, reproduction equipment and facsimile equipment by Lodge #36 shall be subject to availability.
D. **Dues Deductions.** The City agrees to deduct from the wages of any Patrol Officer, who is a member of Lodge #36, all Lodge #36 periodic dues, initiation fees, and assessments uniformly required of members on presentation of a written deduction authorization by such member. Lodge #36 will notify the City from time to time with respect to the dues and charges and its current membership. Further, the Lodge agrees to save the City harmless in the event of any legal controversy with regard to the application of this provision. Nothing in this section shall be construed to require any member of the bargaining unit to become a member of Lodge #36.

E. As of November 1, 1989, all members in the bargaining unit who are not members in good standing of Lodge #36 shall pay a fair share fee to Lodge #36. All members in the bargaining unit hired after November 1, 1989, who do not become members in good standing of Lodge #36, shall pay a fair share fee to Lodge #36 effective upon the member’s date of hire. Lodge #36, by its treasurer, shall certify to the City the fair share amount within ten days of the date of execution of this Agreement. Such amount shall remain in effect until such time that a new amount is certified to the City by the treasurer. The fair share amount shall not exceed dues paid by members of Lodge #36. The amount of said fair share shall be deducted from the wages of such member without the requirement of a written authorization for such payroll deduction and shall be paid to Lodge #36 in the same manner as dues deductions provided for in Section D hereof.

EE. There shall be two (2) members from the Division of Police appointed to the city-wide Safety Committee. One shall be designated by the Chief of Police; the other shall be designated by the President of Lodge #36.

**ARTICLE IV – MANAGEMENT RIGHTS**

FOP Lodge #36 recognizes the rights of the City and the Chief of the Police Division to operate and manage its affairs in all respects, in accordance with its responsibilities and the powers or authority which the City has not abridged, delegated or modified by this Contract and such powers or authority are retained by the City.

These management rights include, but are not limited to the following:

A. To utilize personnel, methods, procedures, and means in the most appropriate and efficient manner possible.

B. To manage and direct the members of the Police Division.

C. To hire, schedule, promote, transfer, assign, train or retrain members in positions within the Police Division.

D. To suspend, demote, discharge, or take other appropriate disciplinary action against the member(s) for just cause.
E. To determine the size and composition of the work force and to lay off member(s).

F. To determine the shift schedules, days and starting and quitting times for the Police Division.

G. To determine the mission of the City and the methods and means necessary to efficiently fulfill the mission, including: the transfer, alteration, curtailment, or discontinuance of any services; the establishment of acceptable standards of job performance; the purchase and utilization of equipment for the performance of services.

H. The City has the right to schedule overtime as required in the manner most advantageous to the City and consistent with the requirements of municipal employment in the public interest.

I. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the member(s).

J. Contracting and Subcontracting. FOP Lodge #36 recognizes that the City has statutory rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested exclusively in the City.

K. The City retains the right to establish Police Division rules, regulations, and rules of conduct. Rules, regulations, and rules of conduct which are specifically cited by provisions of this contract may not be changed without negotiations and agreement of FOP Lodge #36.

The above rights of Management are not all-inclusive but indicate the type of matter or rights which belong to and are inherent to Management. Any of the rights, powers, or authority the City had prior to the signing of this Contract are retained by the City, except those abridged, delegated, or modified by this Contract.

ARTICLE V – PROHIBITION OF STRIKE

Upon notification, confirmed in writing, by the City to Lodge #36 that certain of its members, who, in conflict with Chapter 4117 ORC, are engaged in a wildcat STRIKE, slowdown, concerted non-show-up or speedup, the Lodge shall immediately and in good faith have the President of the Lodge, order in writing such members to return to work and provide the City with a copy of such an order. In the event that the wildcat STRIKE, slowdown, concerted non-show-up or speedup occurs, the Lodge agrees to take all reasonable, effective and affirmative action to secure the members return to work promptly.
ARTICLE VI – GRIEVANCE PROCEDURE

A. 1. A grievance is defined as a dispute over the meaning and application of the terms of this Contract, or disciplinary action, taken against a member covered by this agreement. Each written grievance must state the article of the Contract where the violation has occurred and the remedy requested to settle the grievance.

2. A probationary employee who is disciplined shall have no right to appeal the discipline through the Grievance or Arbitration Procedure.

3. Any step in the grievance procedure outlined below may be skipped on any grievance by mutual consent. In the absence of such mutual consent at any step where a response is not forthcoming within the specified time limits, the grievance will be presumed to have been denied. In such a case the grievant must present his grievance to the next step in the grievance procedure in order to obtain further consideration. A copy of all grievances and responses will be forwarded to the City Manager or his designee and the President of the FOP.

Step 1. When a member has a grievance, he shall within seven (7) calendar days of the time within which said member learned of or should have learned of the occurrence and the facts upon which the grievance is based, present said grievance to the appropriate Deputy Chief. If the grievance cannot be resolved within five (5) calendar days, the member may proceed to Step 2 of this grievance procedure by filing his grievance in writing with the Chief of Police. Grievances based on disciplinary action shall proceed immediately to Step 2 of this grievance procedure.

Step 2. The grievance shall be presented in writing to the Chief of Police not later than seven (7) calendar days after said discussions with the member's immediate supervisor in Step 1. If the grievance is not presented within said time period, it will not be further considered.

Every reasonable effort shall be made to schedule a meeting within seven (7) calendar days of the filing of the grievance at Step 2. The Chief of Police shall respond within five (5) calendar days after the meeting. If the Chief of Police fails to answer, in writing, within five (5) calendar days or his answer is unacceptable to the grievant, the grievant may proceed with Step 3.

Step 3. The grievance shall be presented to the City Manager or his designee no later than seven (7) calendar days after the receipt of an unacceptable decision rendered at Step 2, or within seven (7) calendar days after the seven (7) calendar day period in which the response is due. If the grievance is not so presented, it will not be further considered. A meeting shall be scheduled within seven (7) calendar days after the filing of the grievance at Step 3. The decision shall be given within seven (7) calendar days of said meeting. If the aggrieved member does not notify the City Manager or his designee through the President of the FOP of his
dissatisfaction with the decision rendered, the grievance shall be considered resolved. If the City Manager or his designee fails to answer in writing within the seven (7) calendar days, the grievance will be presumed to have been denied.

Step 4. Failure to resolve any grievance processed through Step 3 may result in the grievance being referred to an Arbitrator, provided written notice of the same is made by the FOP President to the agency from which the Arbitrator is to be provided, with a copy of the notice also to be served upon the City Manager or his designee, within seven (7) calendar days after the receipt of the decision of the City Manager or after the seven (7) calendar day period in which the decision is due. In the event that the FOP President should fail to serve such written notices, the grievance shall be considered settled.

The Arbitrator shall be chosen from a listing of fifteen (15) names provided by the American Arbitration Association. The listing may be requested by the FOP and/or the City and the selection and hearing procedures shall be in accordance with the AAA rules.

B. 1. The parties understand and agree that in making this Contract they have received for its term all bargaining issues which were or which could have been made the subject of discussion. The arbitral forum herein established is intended to resolve disputes between the parties only over the interpretation or application of the matters which are specifically covered in this Contract and which are not excluded from arbitration. Excluded from arbitration are grievances which question the exercise of rights set forth in Article IV of this Contract entitled MANAGEMENT RIGHTS, or which question the use or application of any right over which the Employer is given unilateral discretion in this Contract, or matters which are properly the subject of collective bargaining.

2. The arbitrator shall have no power to add to or subtract from or modify any of the terms of this Contract or addendum to this Contract nor to rule on any matter except while this Contract is in full force and effect between the parties.

In the event a case is appealed to an arbitrator and he finds that he has no power to rule on such case, the grievance will be denied.

3. The award of the arbitrator shall be based exclusively on evidence presented at the arbitration hearing.

4. The expenses of the arbitrator shall be shared equally by the parties. Each party shall make arrangements for and pay the expenses of witnesses which are called by them.

5. The arbitrator's decision shall be final and binding on the FOP, on all Bargaining Unit Members, and on the City.
6. The decision of the arbitrator, in any case, shall not require a retroactive wage adjustment in any other case.

7. It is specifically understood and agreed that in no event shall Employer condonation of any past infractions of any work rule, regulation, duty, responsibility, or policy be found to mitigate, in whole or in part, any discipline imposed by the Employer for any current infraction of any work rule, regulation, duty, responsibility, or policy, nor shall an arbitrator so find; nor shall an arbitrator have the power to mitigate any discipline imposed by the Employer based upon a member's length of service with the Employer.

C. FOP representation at Steps one and two of the grievance procedure shall be limited to the designated representative and the aggrieved member. The FOP President and/or Legal Counsel may accompany the grievant and the designated representative at Steps 3 and 4. By mutual agreement additional persons may be designated to attend.

D. Decisions made at any level below that of the Chief shall not be interpreted as setting a precedent, and the Chief reserves the right to take official action without prejudice, based on his own findings in each grievance.

E. In cases of alleged errors in pay, the City shall not be required to pay back wages for pay periods prior to the time the member seeks to have the error adjusted. The member must seek such an adjustment during the pay period immediately following the pay period in which the alleged error occurred. In order to have any pay dispute resolved by the grievance procedure, the member must file his grievance within five (5) calendar days after receipt of the pay on which the error was to be adjusted or within five (5) calendar days of written notification that no adjustment would be made.

F. The City is authorized to pay grievance settlements.

G. By mutual written agreement of the parties, time limits as set forth in the grievance procedure may be extended.

H. Class grievances may be initiated by the Lodge #36 at Step 2 of the grievance procedure, subject to the time limits of Step 1.

I. Discipline includes reduction in pay or position, removals, and suspensions, with or without pay and written reprimands. Written reprimands may be kept in a member's personnel file for up to two years. After two years if no further disciplinary action has been taken against the member, the written reprimand will be expunged from his file. After expungement a reprimand cannot be used for any purpose.

J. The grievance form will be subject to approval by the FOP and the City.

K. Letters of counseling may be kept in a member's personnel file for up to six (6) months. After six (6) months if no further disciplinary action has been taken against the
member, the letter of counseling will be removed from the member’s file. After removal, the letter of counseling cannot be used by the employer for any purpose.

ARTICLE VII – WAGES

A. There are hereby established the following bi-weekly pay ranges for certain members of the Division of Police within the service of the City.

1. Employees will receive wage increases as follows:

   January 1, 2020 – 3.0%
   July 1, 2020 – 3.0%
   January 1, 2021 – 3.0%

2. (a) Members hired before November 1, 2019 shall follow Wage Scale 1, attached hereto.

   (b) Members hired November 1, 2019 or later shall follow Wage Scale 2, attached hereto.

<table>
<thead>
<tr>
<th>Patrol Officer – Current</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual</td>
<td>$49,483.11</td>
<td>$51,809.73</td>
<td>$54,242.23</td>
<td>$56,787.14</td>
<td>$59,463.02</td>
<td>$62,253.43</td>
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<tr>
<td>Bi-Weekly</td>
<td>$1,903.20</td>
<td>$1,992.68</td>
<td>$2,086.24</td>
<td>$2,184.12</td>
<td>$2,287.04</td>
<td>$2,394.36</td>
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<table>
<thead>
<tr>
<th>Effective November 1, 2015 (1%)</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual</td>
<td>$49,978.24</td>
<td>$52,328.64</td>
<td>$54,785.12</td>
<td>$57,354.96</td>
<td>$60,057.92</td>
<td>$62,876.32</td>
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<tr>
<td>Bi-Weekly</td>
<td>$1,922.24</td>
<td>$2,012.64</td>
<td>$2,107.12</td>
<td>$2,205.96</td>
<td>$2,309.92</td>
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<table>
<thead>
<tr>
<th>Effective November 1, 2016 (1.5%)</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
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</thead>
<tbody>
<tr>
<td>Annual</td>
<td>$50,728.08</td>
<td>$53,113.84</td>
<td>$55,607.76</td>
<td>$58,216.08</td>
<td>$60,959.60</td>
<td>$63,819.60</td>
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<tr>
<td>Bi-Weekly</td>
<td>$1,951.08</td>
<td>$2,042.84</td>
<td>$2,138.76</td>
<td>$2,239.08</td>
<td>$2,344.60</td>
<td>$2,454.60</td>
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<tr>
<td>Hourly</td>
<td>$24.3885</td>
<td>$25.5355</td>
<td>$26.7345</td>
<td>$27.9885</td>
<td>$29.3075</td>
<td>$30.6825</td>
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<table>
<thead>
<tr>
<th>Effective November 1, 2017 (2%)</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
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</thead>
<tbody>
<tr>
<td>Annual</td>
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<td>$54,176.72</td>
<td>$56,720.56</td>
<td>$59,380.88</td>
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<td>$65,096.72</td>
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<tr>
<td>Bi-Weekly</td>
<td>$1,990.12</td>
<td>$2,083.72</td>
<td>$2,181.56</td>
<td>$2,283.88</td>
<td>$2,391.52</td>
<td>$2,503.72</td>
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</table>
3. Members shall participate in the “Performance-Based Compensation” set forth in the Pay & Benefits Ordinance, as adopted by the City Council of Middletown each year. In 2016, the Performance-Based Compensation is set at $500.00.

B. Salary Adjustment.

1. The salary of each member shall be reviewed annually or, as herein provided, by the Chief of Police for the purpose of determining which member shall be entitled to a step increase. The performance evaluations as recorded on prescribed forms in accordance with the system designed by the Chief of Police shall be considered in making recommendations. Each member will be advanced at the time of such review until the maximum step has been reached unless the Chief of Police notifies the member in writing of the reasons for denial of this advancement. The length of time any member of the bargaining unit shall remain in Step D, E and F, of the pay range before review for possible increase shall be six (6) months.

2. If the advancement is denied by the Chief of Police the following applies:

   (a) The first time advancement is denied the member may appeal the decision directly to the City Manager or his designee whose decision will be final. No grievance may be filed on this matter. If this occurs, the member's salary will be reviewed again by the Chief of Police in three (3) months.

   (b) The second time advancement is denied the member may appeal the decision directly to the City Manager whose decision will be final. No grievance may be filed on this matter. If this occurs, the member's salary will be reviewed again by the Chief of Police in three (3) months.

   (c) The third time advancement is denied the decision may be grieved in accordance with Article VI of this contract.

C. Shift Differential.

1. For any regularly assigned shift commencing between the hours of 2:45 p.m. and 6:44 a.m. of the following day, shift differential pay shall be as follows:

   (a) For any shift starting at 2:45 p.m. or after, but not later than 7:44 p.m.:

<table>
<thead>
<tr>
<th>Current</th>
<th>$0.60 per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective 11/16</td>
<td>$0.80 per hour</td>
</tr>
<tr>
<td>Effective 11/17</td>
<td>$1.00 per hour</td>
</tr>
</tbody>
</table>

   (b) For any shift starting at 7:45 p.m. or after, but not later than 6:44 a.m.:
2. In the computation of overtime under this agreement, the overtime shall be computed including any shift differential.

3. All efforts will be made to notify Patrol Officers of changes in their regular shift hours of more than three (3) hours at least 5 days prior to the change. In the event notification is not given, the Patrol Officer shall receive three (3) hours call-out pay, unless the change is necessary to accommodate illness, injury, or some emergency.


1. Effective November 1, 1989, members shall be paid 1-1/2 times their hourly rate for all "hours worked", as defined by the Fair Labor Standards Act, over 40 hours in a work week. Off-duty incident, court time, holidays, injury leave, leave, and call-out time count toward the 40-hour breakover point.

2. If overtime is refused by all officers on a shift, the supervisor in charge shall have the right to hold over, or work, officers as needed, where there are additional police manpower needs, beginning with the least senior officer on duty. If an officer is involved in an ongoing situation, he shall remain at work on overtime at the request of his supervisor. This is the only situation in which overtime will be involuntary. A member shall not be subject to an involuntary holdover more than once in a forty-eight (48) hour period, or at anytime when the member is already in an overtime status. An involuntary holdover shall be paid at one and one-half times the member’s regular rate. All other overtime shall be defined as voluntary. If a member signs up for voluntary overtime or off-duty Contract work, then, that member is obligated to work the overtime or find a suitable replacement. Trading of shifts within the department will be permitted with the permission of the member’s superior officer, and the Chief of Police. A member retains his seniority rights, for holdover purposes, when trading shifts.

3. Members will receive hourly pay for actual time worked with a minimum of three (3) hours' pay for any job connected court appearance while off duty as a witness in a criminal, civil, or juvenile prosecution, including reasonable travel time as described herein. If a member is held in court over three (3) hours, he shall be compensated for the additional hours. If a court appearance is scheduled one hour or less immediately before an officer's shift, he shall be paid overtime for that period. If a court appearance is scheduled up to one hour following the end of his shift, he shall be paid overtime for the period of time from the end of his shift until relieved by the Court. In both situations, payment would be made in accordance with the paragraph 1 of this section.
In proceedings other than those held in the Middletown Municipal Court or in the City Building, a member may report to the City Building to use a city vehicle for travel to and from court. The hours worked will begin upon the member reporting to the administrative offices of the Division of Police to pick up a city vehicle and end when the city vehicle is returned to those offices. If the member chooses to travel directly to the court appearance, the hours worked shall commence fifteen minutes prior to the time set forth in the subpoena. The reasonableness of travel time shall be determined at the sole discretion of the Chief of the Division of Police.

4. Members shall receive at least three (3) hours pay for any extra tour of duty that results from being called out to work.

5. Members will receive hourly pay for actual time worked with a minimum of two (2) hours pay for any mandatory job assignment scheduled outside the member's normal work hours including but not limited to staff meetings, training, firearms qualifications and BAC proficiency testing. If the assignment begins during the member's regular scheduled shift or begins at the conclusion of the shift, the member shall not be eligible for this premium pay.

6. Payment under paragraphs (3), (4), (5), and (11) of this Section will be paid at one and one-half times the employee’s regular rate of pay.

7. Declared emergencies are defined as any emergency declared by the City Manager as a result of any situation which would endanger the well-being of the citizenry of Middletown. Declared emergencies shall be compensated at hour for hour compensatory time while the emergency situation exists.

8. Effective January 1, 2016, all members shall have the option, up to six times per year in accordance with the first payrolls in February, April, June, August, October, and December, of exchanging up to 160 hours (20 days) per year of holiday time earned, but not taken, for pay at the member’s current hourly rate. Any member with fifteen (15) years of service or more may cash in an additional 40 hours (5 days) per year of holiday time earned, but not taken, for pay at the member’s current hourly rate. All holiday exchanges are subject to the following conditions:

(a) Approval must be given by the Chief of Police and City Manager; and

(b) There are unused funds available in the Division of Police Salary Budget for payment. In the event unused funds are not available to meet all requests for holiday exchange, preference will be given to DROP eligible members and the distribution of such exchanges shall be at the discretion of the Chief of Police.

9. Before any member shall be officially assigned to act in a higher position for a shift, i.e., eight (8) hours or more, it shall be first offered to other members of the
bargaining unit holding such higher position. If none of said members holding such higher position are available, then any member officially assigned to act in a higher position shall be compensated, during the entire period of continuous temporary assignment at the beginning step of the higher classification, or at a rate of 4.7% greater than the regular step of the member, whichever is greater. Rules and regulations for such assignment shall be prescribed by the Chief of Police.

10. Members who are placed on standby status outside their regular work shift at times approved by the Chief of Police shall receive compensation equal to two (2) hours pay for each day on standby.

11. When a member is involved in an off-duty incident requiring the use of his official police powers, and when said police officer is not engaged in employment for any other concern, the police officer shall be paid a minimum of three (3) hours pay for the off-duty incident. Proper documentation in the form of a report of the incident must be filed in the Division of Police prior to payment.

12. A member working in excess of forty (40) hours in one week, as defined by The Fair Labor Standards Act, as amended, shall have the right to request payment of overtime work in compensatory time off on the basis of one and one-half hours off for each hour of overtime worked. Time off to use earned compensatory time will be granted within thirty (30) days of the request made by the member. When compensatory time is used, it shall not count as hours worked during the applicable work period for purposes of determining overtime. If the requested compensatory time cannot be scheduled as requested, the member has the option of taking pay in lieu of time off or rescheduling the requested compensatory time.

No member shall be permitted to accrue more than four hundred eighty (480) hours of unused compensatory time and any member who has accrued unused compensatory time to the four hundred eighty (480) hour limit shall be paid in cash for additional overtime worked. Any members who have over 300 hours of accrued unused compensatory time at the time of the execution of this Agreement will be considered “grandfathered” and allowed to continue to have a maximum accrual limit of 480 hours. However, if a Grandfathered Employee’s balance drops below 300 hours, they will become subject to the new 300 hour limit and shall be paid in cash for additional overtime worked. If a member is paid in cash for accrued compensatory time, he/she shall be paid at the member's regular rate at the time of payment.

Upon termination of employment, unused compensatory time shall be paid at the member's average regular rate for the last three (3) years of employment or the member's final regular rate, whichever is higher.

13. The City shall pay the cost incurred by any member who is required by his superior to attend a meeting or function pertaining to his official duties as such member during other than his regular working hours. Such cost shall not include transportation to or from such meeting or function if held within the city, but shall
include any meal deemed necessary by his superior in view of the hour during which the meeting or function is held. No such meeting or function shall be called or held without the prior written approval of the Chief of Police and the City Manager.

14. When a member is promoted to a position in a higher class, his salary shall be increased as follows:

(a) Where a promotion occurs up to three months after a step increase: One step increase with anniversary date same as date of promotion (eligible for step increase one year later).

(b) Where a promotion occurs three to six months after a step increase: One step increase with old anniversary date retained (eligible for step increase six to nine months after promotion).

(c) Where a promotion occurs more than six months after a step increase: Two step increases with anniversary date same as date of promotion (eligible for step increase one year later).

E. Longevity.

1. Longevity shall be paid to members at the following rate:

   In December of the calendar year of the attainment of the tenth (10) anniversary and each calendar year thereafter through the fifteenth (15) anniversary of employment, each member shall be eligible for 1% of their existing base salary as of November 30th of the year in which they are paid the longevity.

   In December of the calendar year of the attainment of the fifteenth (15) anniversary and each calendar year thereafter through the twentieth (20) anniversary of employment, each member shall be eligible for 2% of their existing base salary as of November 30th of the year in which they are paid the longevity.

   In December of the calendar year of the attainment of the twentieth (20) anniversary and each calendar year thereafter until retirement or resignation, each member shall be eligible for 3% of their existing base salary as of November 30th of the year in which they are paid the longevity.

   Payment of longevity shall be in separate checks and they shall be paid in accordance with such regulations prescribed by the City Manager in regard to but not limited to such items as partial year payments, death or retirement payments, etc.

2. Partial Year Payments. In the event of an interruption in service, longevity will be determined from a member's last date of active employment.
3. Payment of Longevity.

(a) Longevity will be paid in a lump sum in December of each year.

(b) In order to receive longevity payments, a member must be on the payroll when such payment is made, except as provided herein.

4. Death or Retirement.

(a) In the event of the death or retirement of a member, longevity due for that year will be paid through the date of death or retirement on the same basis as partial year payment computations. It will not be paid on any terminal pay, but will be paid as a lump sum with any earned terminal pay.

(b) If a member's employment date falls from the first through the fifteenth of the month, longevity will be computed from the first of that month.

(c) If a member's employment date falls from the sixteenth through the last day of the month, longevity will be computed from the first of the next month.

F. Payment of Insurance Premiums. Members shall be entitled to participate in the City's health insurance program as recommended by the Health Care Committee and described in the documents on file in the Finance Department.

1. The City agrees to maintain a City Health Care Committee for the purpose of regularly reviewing employee health care needs, and implementing a health care program for its employees. The Committee shall act in accordance with the Final Report of the Health Care Task Force Report dated July 10, 2006, and further amendments by the Committee. If the Committee is not maintained by the City, the City will provide the health care benefits in place at the time of the dissolution of the Committee for the remainder of the Agreement.

2. The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of health issues, including, but not limited to, the selection of carrier, determination of coverage and determination of co-payments, deductibles, and employee contributions, subject to the limitations herein. The City agrees to adhere to recommendations of the Committee as such recommendations apply to the members. The Union shall have one (1) designee that serves on the Committee and may exercise voting rights on behalf of the Union. Any member appointed as the Union’s designee shall be paid for attending the Committee meetings. Any overtime incurred by a member while attending meetings of the committee shall be paid at one and one-half times their regular rate of pay.
3. All coverage shall be subject to the insurance company’s requirements and eligibility.

4. Employees shall have the option to participate in a basic health insurance plan as recommended by the Health Insurance Committee, subject to the following:

- Not to exceed amounts for monthly employee contributions (to be deducted in equal installments not less than one time per month), co-pays, deductibles, and co-insurance or those recommended by the Committee, whichever is less:

<table>
<thead>
<tr>
<th>Employee Contribution (Bi-Monthly)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Single</strong></td>
</tr>
<tr>
<td>CURRENT</td>
</tr>
<tr>
<td>1/1/2016</td>
</tr>
<tr>
<td>1/1/2017</td>
</tr>
<tr>
<td>1/1/2018</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2016 &amp; 2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Network</td>
<td>Non-Network</td>
</tr>
<tr>
<td><strong>Deductible</strong></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>$750</td>
</tr>
<tr>
<td>Family</td>
<td>$1,500</td>
</tr>
<tr>
<td><strong>Coinsurance</strong>*</td>
<td>90%</td>
</tr>
</tbody>
</table>

<p>| <strong>Out of Pocket</strong>** | | |
|---------------------|-----------------|
| <strong>Single</strong> | $3,000 | $6,000 | $4,000 | $8,000 |
| <strong>Family</strong> | $6,000 | $12,000 | $8,000 | $16,000 |
| <strong>Office Visit (PCP/Specialist)</strong> | $30/$50 | 70%* | $35/$60 | 70%* |
| <strong>Urgent Care Copay</strong> | $30 | 70%* | $70 | 70%* |
| <strong>ER Copay</strong> | $150 | $150 | | |
| <strong>Inpatient Deductible</strong> | $250 | $250 | | |
| <strong>Outpatient Services</strong> | 90%* | 70%* | 90%* | 70%* |
| <strong>Prescription Drug</strong> | <strong>Retail (31 days)</strong> | <strong>Mail Order (90 days)</strong> | <strong>Retail (31 days)</strong> | <strong>Mail Order (90 days)</strong> |
| <strong>Tier 1</strong> | $10 | $15 | $25 | $50 |</p>
<table>
<thead>
<tr>
<th>Tier 2</th>
<th>$40</th>
<th>$60</th>
<th>$50</th>
<th>$100</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 3</td>
<td>$80</td>
<td>$100</td>
<td>$100</td>
<td>$150</td>
</tr>
<tr>
<td>Tier 4 (Specialty)</td>
<td>$200 copay</td>
<td>$200 copay</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Includes deductible**

<table>
<thead>
<tr>
<th>Employee Contribution (Bi-Monthly)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
</tr>
<tr>
<td>CURRENT</td>
</tr>
<tr>
<td>1/1/2020</td>
</tr>
<tr>
<td>1/1/2021</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Network</td>
<td>Non-Network</td>
</tr>
<tr>
<td>Deductible</td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>$1,500</td>
</tr>
<tr>
<td>Family</td>
<td>$3,000</td>
</tr>
<tr>
<td>Coinsurance*</td>
<td>80%</td>
</tr>
</tbody>
</table>

*After deductible*  

<table>
<thead>
<tr>
<th>Out of Pocket**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
</tr>
<tr>
<td>Family</td>
</tr>
<tr>
<td>Office Visit (PCP/Specialist)</td>
</tr>
<tr>
<td>Urgent Care Copay</td>
</tr>
<tr>
<td>ER Copay</td>
</tr>
<tr>
<td>Inpatient Deductible</td>
</tr>
<tr>
<td>Outpatient Services</td>
</tr>
<tr>
<td>Prescription Drug</td>
</tr>
<tr>
<td>Tier 1</td>
</tr>
<tr>
<td>Tier 2</td>
</tr>
</tbody>
</table>
Limits placed on employee contributions, co-pays and out-of-pocket maximums in this Agreement do not prevent the City from offering employees alternate health care plans which might have higher or lower contribution levels, co-pays and out-of-pocket maximums.

5. Members who retire under the Police and Firemen's Disability and Pension Fund because of the City's compulsory retirement ordinance, because of inability to work due to disability, or having reached the respective pension funds' retirement age and/or years of service requirements, shall receive Hospital Care and Surgical Care Insurance coverage if the same is not provided by the respective pension fund. No duplication of coverage is permitted.

6. All members shall receive $22,500 group life insurance coverage paid by the City. Members may purchase additional group life insurance consistent with the carrier’s available options. Double indemnity premiums shall be paid by the City on all coverage provided by the City.

7. Any member retiring on or after January 1, 1972, shall receive $5,000 life insurance coverage paid for by the City. Double Indemnity will not be provided on such coverage.

8. The City will indemnify members and provide a defense to members such as the result of his/her employment, in accordance with the provisions of Ohio Revised Code Chapter 2744 and Middletown Codified Ordinance, Section 250.03.

G. Uniforms. Subject to the rules of the Police Division, the City shall provide the original complete uniform for those members required to wear a uniform and such shall remain the property of the City.

1. Uniformed Police Personnel. All members in the Division of Police shall receive unlimited uniform replacement based upon demonstrated need.

2. Non-uniformed Police Personnel. Each eligible non-uniformed Patrol Officer of the Division of Police shall be paid a maximum of $1,250.00 annually to cover individual expenditures for wearing apparel. Said amount is to cover future individual expenditures for wearing apparel and will be paid to officers who have been assigned non-uniformed positions effective January 15 and July 15 of each year, in equal installments of $625.00 each, payable on January 15 and July 15 of each year the officer is so assigned.

3. Clothing and Equipment Maintenance Allowance. Each member shall be paid a clothing and equipment maintenance allowance on January 15 and July 15 of
each year in equal installments as follows:

   Effective 1/1/2016  $1,000 ($500.00 each installment)
   Effective 1/1/2017  $1,100 ($550.00 each installment)

4. All monetary allowances under this section of Article VII shall be prorated with no allowance paid for periods prior to hire, after resignation, retirement, death, or dismissal, and during leave of absence without pay and disability leaves of absence.

H. Canine Allowance. Members who are designated as canine officers shall be paid $5.00 per day as compensation for expenses associated with the care of their dog while at home. Such payment shall be made in $912.50 installments on January 15 and July 15 of each year. In recognition of the fact that canine officers spend time caring for their dogs while at home, they will be required to be physically present at the police division for only 7.5 hours of their 8 hour shift.

I. FTO Pay. Effective 11/26/00 members who are assigned as a Field Training Officer (FTO) shall be paid a $2.50 per hour premium pay for those hours in which they are actually performing FTO duties.

J. Direct Deposit. Members agree that all payroll payments will be direct deposited in an account of their choice in compliance with the guidelines established by the City of Middletown Finance Department.

ARTICLE VIII – HOURS OF WORK

A. Work Day – Work Week.
   1. The work week shall consist of forty (40) hours.
   2. The work day shall consist of eight (8) hours.

B. Work Shifts. The Chief of Police shall establish, publish, and assign members to such work shifts as he may designate.

C. Additional work may be required pursuant to the City's needs.

ARTICLE IX – VACATION

A. Effective January 1, 1990, each member will earn vacation credit at a rate of 5/6 of a day for each calendar month employed in the vacation year, to a maximum of 10 working days in one year. During and after the 7th year of service, members earn vacation credit at the rate of 1-1/4 days for each calendar month employed in the vacation year, to a maximum of 15 working days in one year. During and after the 15th year of service, a member will earn vacation credit at the rate of 1-2/3 days for each calendar month, to a maximum of 20 working days in one year.
A. Effective January 1, 2019, each member will earn vacation credit as noted below:

**Vacation Days Based on Years of Service**

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Permanent Full Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – 4</td>
<td>10</td>
</tr>
<tr>
<td>5 – 9</td>
<td>13</td>
</tr>
<tr>
<td>10 – 14</td>
<td>18</td>
</tr>
<tr>
<td>15 – 19</td>
<td>20</td>
</tr>
<tr>
<td>20 – 24</td>
<td>25</td>
</tr>
<tr>
<td>25+</td>
<td>28</td>
</tr>
</tbody>
</table>

Any permanent full-time employee that received vacation credit in an amount exceeding that in the above schedule in 2017 shall continue to receive the amount of vacation credit they received in 2017 so long as they remain a permanent full-time employee of the City.

1. **Vacation Year and Accrual.** The vacation year begins on January 1 of each year and ends on December 31. Vacation taken in any year is based upon vacation credit earned in the previous year.

2. **One Year Minimum Service.** After one year of service, a member may take that portion of his vacation earned in the previous vacation year.

3. **Non-accrual.** Members on leave without pay for any reason, except injuries on the job, shall not accrue vacation benefits.

4. **Scheduling.** Vacations shall be scheduled on a seniority basis with the approval of the Chief of Police. In general, the Chief of Police shall give as much consideration as possible to the member's preference, while, at the same time, maintaining the staff necessary to meet operational requirements. Vacations may be taken in increments of not less than one-half day.

5. **Vacation credit should be used by year end (subject to departmental rules and regulations).** Upon the approval, in writing, of the Chief of Police, vacation credit may be deferred for one year, provided that which is deferred is used by the second year's end. Any unused vacation must be approved by the City Manager, in writing, in order to be deferred to the next year.

6. **Any member may request to receive pay at the member's current hourly rate for up to forty (40) hours of vacation leave in each year in which they have accrued vacation credit in lieu of using that vacation leave.** The request is subject to the availability of funds in the budget to pay such request and must be approved by the Chief of the Division of Police, the Director of Finance and the City Manager.
B. **Longevity Vacation Days.** Each member shall also be entitled to two longevity vacation days annually for the first full five years of service; thereafter, he or she shall be entitled to one additional longevity vacation day annually for each full five years of service. In the five-year increment years, the member shall be eligible to take this day as of his appropriate anniversary date with the approval of the Chief of Police. During the interim years, this day will be taken as outlined in paragraph A(4).

1. 5 years 2 longevity days  
   10 years 3 longevity days  
   15 years 4 longevity days  
   20 years 5 longevity days, etc.

2. Permanent, full-time members may accumulate and defer a maximum of ten (10) longevity vacation days. These days shall be governed by and used in accordance with City and division vacation regulations.

3. There will not be a cash conversion option for accumulated longevity vacation days, except, a member who voluntarily resigns or retires with two (2) weeks notice or dies and has earned and is eligible to take longevity vacation days will receive pay for those days which he has not taken.

C. **Personal Day.** All members covered by this contract shall be granted one personal day each year. The personal day must be used in the calendar year granted and cannot be carried over to subsequent years or accumulated or banked in any manner. The personal day shall not count toward the 40 hour breakover point. This day will be scheduled in the same manner as vacation and longevity days.

D. **Sick Leave Conversion Provisions.** Members may convert sick leave credit to vacation, once a year, on the following basis:

1. **Over 280 hours sick leave credit.** A member with more than 280 sick leave hours credit, may convert all those hours over 280 to vacation credit, at the ratio of 24 sick leave hours for 8 vacation hours, providing that not more than 96 sick leave hours are so converted in any one vacation year; or

2. **Over 800 hours sick leave credit.** A member with more than 800 sick leave hours credit, may convert all those hours over 800 hours to vacation credit, at the ratio of 8 sick leave hours for 8 vacation hours, providing that not more than 40 sick leave hours are so converted in any one vacation year.

3. The member must have accumulated these days prior to January 1, of the year in which these days are to be converted, and must have sufficient days at the time of conversion.
E. Terminal Vacation Provisions. The right to vacation upon separation from the City service shall be as follows:

1. Resignation. A member who resigns, has at least one year service, and who gives two weeks notice, shall receive vacation credit earned in the previous year and not yet taken, at the rate of 5/6 of a day for each month served. He may receive vacation credit earned in the present year as determined by the Chief of Police. Total vacation credit must be calculated to the nearest full day.

2. Retirement. A member who retires, and who gives two (2) weeks notice, shall receive vacation credit earned in the previous year and in the present year and not yet taken at the appropriate rate for each month served. Total vacation credit must be calculated to the nearest full day.

3. Dismissal. In the event a member who has been employed more than one year is dismissed, he shall receive payment for his vacation which he has earned in the previous year and not yet taken. He may receive vacation credit earned in the present year as determined by the Chief of Police. The Chief of Police’s decision should be in writing to the Personnel Human Resources Division. Total vacation credit must be calculated to the nearest full day.

4. Death. A member who dies shall receive vacation credit earned in the previous year and in the present year and not yet taken at the appropriate rate for each month served. Total vacation credit must be calculated to the nearest full day.

ARTICLE X – SICK LEAVE

A. Eligibility. Each member is credited with 10 hours of sick leave for each full calendar month of service. No credit is earned for any month in which a member is without pay for the entire month.

B. Accumulation. Sick leave credits may be accumulated to a maximum of 2000 hours.

C. Approval of Usage. Members may use sick leave, upon approval of the Chief of Police, for absence due to illness, injury, exposure to contagious disease which could be communicated to other members, and for illness in the member’s immediate family. Discretion should be used in approving sick leave usage. Absence for trivial reasons will not be approved, even though there is sick leave balance to the member’s credit. In no event will a member on sick leave be paid for more than eight (8) hours in a 24 hour period with the exception of being called out. If a member is scheduled to work on a holiday, and reports sick, the member shall receive regular holiday pay, and it will not be charged against his sick leave.

D. Sickness or disability in the immediate family (limited to father, mother, sister, brother, husband, wife, or child of the member). The Chief of Police may require a certificate of the attending physician before certifying approval of payment under this
provision. Time off under this provision must be limited to that which is absolutely necessary and shall not exceed three days for any one illness without the written approval of the Chief of Police.

E. Quarantine because of contagious disease. A certificate of quarantine from the attending physician must be presented to qualify for sick leave under this provision.

F. Funeral Leave. Bereavement Leave.

1. (a) In the event of death in the immediate family, a member shall qualify for funeral bereavement leave with pay for up to three (3) consecutive work days (24 hours) for participation in funeral services, arrangements or memorial services or arrangements.

(b) For the purpose of this section, "immediate family" is defined as "spouse, child or stepchild, grandchild, parent, step parent, grandparent, brother, sister, parents or step parents of spouse, and grandparents of spouse."

2. (a) Funeral Bereavement pay will be provided to accommodate absences occurring only on regularly scheduled work days at the member's base rate of pay. Funeral Bereavement leave will not be granted for any period during which the member is already in a paid or unpaid leave status (unpaid leave status is interpreted as being military leave, disciplinary suspension, voluntary unpaid leave, absence without leave).

(b) Eligibility is further conditioned upon submission by the member of a certificate as to the purpose and validity of leave usage.

(c) Leave requests meeting the conditions of these sections will be approved by the member's immediate supervisor, and if requested, the member shall further submit proof of death and relationship.

(d) Requests for funeral bereavement leave with pay will not be approved for absences not taken within a seven (7) calendar day period of the date of the funeral or any memorial services for the decedent.

3. (a) In the event of the death of a relative in other than the immediate family, as defined above, leave time with pay of up to one (1) eight (8) hour work day may be taken for funeral bereavement purposes.

(b) In the event a member should require additional time in excess of the allowances established in the above provisions, such additional time may be charged against vacation credits, with the approval of the supervisor.

4. Use of funeral bereavement leave will not be charged against accumulated sick leave balances.
G. **Reporting Off Sick.** Sick leave will be paid only when the member or a member of his immediate family notifies his deputy chief or other designated person of his absence one (1) hour prior to start of member's shift.

H. **Conversion to Vacation Credit.** Sick leave may be converted to vacation in accordance with the provisions of Article IX(D). No member is required to convert sick leave credit to vacation days. However, each member entitled to convert sick leave to vacation may be required to state his intentions whether or not to use it within a time limit set by the Chief of Police. This provision may be waived.

I. **Conversion to Terminal Leave.** Upon the death, retirement, resignation or dismissal of a member all unused sick leave credit will be converted to terminal leave pay in the following manner:

1. If the member has accumulated 300 hours or less of unused sick leave, no terminal shall be paid;

2. If the member has accumulated between 301 hours and 1000 hours of unused sick leave, all unused sick leave credit will be converted on the basis of twenty-four (24) sick leave hours for eight (8) hours of terminal pay to a maximum of three hundred and thirty-three (333) hours;

3. In addition to the terminal pay set forth in paragraph two above, if the member has accumulated 1001 hours or more of unused sick leave, all unused sick leave in excess of one thousand (1000) hours will be converted on the basis of sixteen (16) sick leave hours for eight (8) hours of terminal pay to a maximum of five hundred (500) hours;

4. Notwithstanding paragraph two and three above, if a member is terminated or dismissed from employment, the member shall not receive in excess of two hundred (200) hours of terminal pay.

J. **Supplemental Sick Leave Regulation.** The Chief of Police shall establish regulations to supplement those set forth above. Such regulations should include the following points:

1. **Certificate.** In cases of illness in the member's family requiring him to be at home, the member may be required to submit a certificate from the attending physician attesting to the fact, before sick leave will be allowed.

2. **Transfer of sick leave days from one member to another** will be allowed under rules established by the Chief of Police.

K. **Maternity Leave.**

1. **Notification of Pregnancy.** It is the duty of the member to notify her supervisor as soon as pregnancy has been confirmed.
2. **Leave of Absence.** Maternity leave will be granted to members upon the certification of the attending physician they are no longer capable of adequately performing their job-related duties due to pregnancy.

Sick leave may be utilized for maternity leave, in accordance with Administrative Regulation 11-27.

The member will be required to return to work as soon as her physician determines she is capable of performing job-related duties.

3. During pregnancy and until such time as the member is released by her physician with respect to the pregnancy, a member who is unable to perform her regularly assigned duties may be assigned by the Chief of the Division to perform duties not requiring great physical exertion, with the approval of the member's physician or a physician of the employer's choice.

**ARTICLE XI – HOLIDAYS**

A. This is an earned benefit. The following days shall be celebrated as paid holidays by all members:

<table>
<thead>
<tr>
<th>Holiday</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Year's Day</td>
<td>January 1</td>
</tr>
<tr>
<td>Labor Day</td>
<td>January 1</td>
</tr>
<tr>
<td>Martin Luther King Day</td>
<td>January 16</td>
</tr>
<tr>
<td>Thanksgiving Day</td>
<td>November 22</td>
</tr>
<tr>
<td>President's Day</td>
<td>Third Monday in January</td>
</tr>
<tr>
<td>Day after Thanksgiving</td>
<td>November 23</td>
</tr>
<tr>
<td>Good Friday</td>
<td>December 25</td>
</tr>
<tr>
<td>Christmas Eve</td>
<td>December 25</td>
</tr>
<tr>
<td>Memorial Day</td>
<td>December 31</td>
</tr>
<tr>
<td>Christmas Day</td>
<td>December 25</td>
</tr>
<tr>
<td>Independence Day</td>
<td>July 4</td>
</tr>
<tr>
<td>Member's Birthday</td>
<td>August 12</td>
</tr>
</tbody>
</table>

B. Each member shall be able to accumulate seventy-five (75) holidays (600 hours). Members who have accumulated more than six hundred (600) hours prior to November 1, 2015 may accumulate unlimited holidays. If an employee is scheduled to work a holiday, works the holiday and is unable to bank the holiday because of the limit on the accumulation of holidays in this section, the employee shall be paid for the holiday.

C. All holiday leave shall be subject to the following terms:

1. A member working on a regular schedule shall not be excused from work on the above days unless otherwise scheduled by the Chief of Police.

2. **Loss of Holiday.** If a member is off without pay because of an unexcused absence either the work day before or the work day after a holiday, he forfeits that holiday pay. An unexcused absence is an absence not covered by approved vacation, accumulated sick leave, and military leave, approved leaves with pay or approved leaves without pay. In addition, holiday pay ceases during any period a member is not being paid his regular salary or wage.
3. **During Vacation.** If a holiday falls during a member's vacation period, it shall not be charged to vacation time, except where division policy is to grant additional vacation time in lieu of granting regular holidays off.

4. **Holiday Pay.** Members working on New Year's Day, Thanksgiving Day, or Christmas Day, shall be entitled to the following compensations:

   One-half hour's pay for each hour worked between the hours of 7:00 a.m. the morning of the holiday and 7:00 a.m. the following day, in addition to the regular work pay.

5. **Additional Holiday Provision.** A member who resigns or retires with two (2) weeks notice, or dies, will be paid for holidays which have been accumulated but not taken.

**ARTICLE XII – AUTHORIZED LEAVE**

**A. Military Leave.**

1. Patrol Officers who are members of any military reserve component are entitled to leave of absence for such time as they are in the military service on field training or active duty. Such leave will be granted by the Chief of Police only after seeing orders from proper military authorities, which shall be presented not less than 30 days prior to the beginning of such training or active duty period, except in the case of emergency.

2. Military training leaves shall be without pay; provided, however, if the member's military pay is less than his regular City pay, he may file a certificate to that effect upon his return and forward it to the Director of Finance, via the Human Resources Division, whereupon he will be entitled to the difference, up to a maximum of 35 days per calendar year.

3. Military training leaves do not affect the member's sick leave or vacation balances, or accumulation, and shall not be considered to be a break in his continuous employment by the City.

**B. Leave of Absence with Pay.**

1. **Purpose.** Leaves of absence with pay may be granted for any legitimate reason including, but not limited to the following, provided such absence has been approved in advance by the proper authority, as outlined below:

   (a) For military pre-induction examinations;

   (b) When called to serve on a jury (payment on a no loss basis to member);
(c) When subpoenaed as a witness in a work related court case;

(d) To attend meetings, conventions, conferences, or a short course of instruction which benefit the City as approved by the Chief of Police.

2. **Procedure.** A member desiring to apply for a leave of absence should submit his application to his immediate supervisor, outlining briefly the necessity for such a leave. The supervisor will transmit the request to the Chief of Police along with his comments. Further disposition will be made as follows:

   (a) A request for leave of five days or less will be granted at the sole discretion of the Chief of Police.

   (b) A request for leave of more than five days duration will be forwarded to the City Manager by the Chief of Police along with his recommendations.

3. **Conditions.** All such leaves will be given in writing with a copy directed to the Personnel Human Resources Division. When pay is granted by another agency, such as in a court proceeding, the statement from the agency must be submitted with the next payroll following return to work.

   The City will compensate the member for the difference between that agency payment and the member's regular salary. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case.

C. **Leave of Absence without Pay.**

1. **Purpose.** Leave of absence without pay may be granted for any legitimate purpose subject to approval, including but not limited to the following:

   (a) To further a member's education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the member agrees to return to City employment for a specified period of time after such leave).

   (b) To attend funerals not covered by paid leave.

   (c) To care for a member of the immediate family in case of extended illness or injury in circumstances not covered by sick leave.

   (d) Illness not covered by sick leave.

2. **Procedure.** A member desiring to apply for a leave of absence without pay should submit an application to his immediate supervisor, outlining the reason for the request. The supervisor will transmit the request to the Chief of Police along with his comments. Further disposition will be made as follows:
(a) A request for leave of five days or less shall be granted at the sole discretion of the Chief of Police.

(b) A request for leave of more than five days duration will be forwarded to the City Manager by the Chief of Police along with his recommendations.

3. Conditions. All such leaves will be given in writing with a copy directed to the Director of Employee Relations Human Resources Division. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while a member is on a leave without pay after such leave exceeds two weeks. Fringe benefits include sick leave, vacation, annual pay increases, insurance, holidays, longevity pay and uniform allowance. The member may continue his health insurance coverage at his sole expense. Longevity pay shall be paid to a member on a leave of absence without pay, or who has used a leave of absence without pay during the year, on a prorated basis with no longevity pay for the period of leave of absence without pay.

D. Disability Leave of Absence.

1. A member incurring any disability not duty connected, after he has exhausted all of his paid leave to which he is entitled, will be entitled to a leave without pay for a period not to exceed six (6) months, subject to the following provisions:

   (a) The member shall apply for such leave, in writing, to the Chief of Police, for his approval.

   (b) The member shall submit a physician's report, including a statement regarding the nature of the disability and whether or not the member is able to work.

   (c) The member shall submit to the Chief of Police, a physician's statement of release for work before returning to work.

2. All fringe benefits cease while a member is on a disability leave of absence. Fringe benefits include sick leave, vacation, annual pay increases, holidays, longevity pay, and uniform allowance. Health insurance shall be continued with the member paying only his contribution under Appendix A of this agreement for a period of ninety (90) days. At the end of that period, the member may continue his health insurance coverage at his sole expense. Longevity pay shall be paid to a member on a disability leave of absence, or who has used a disability leave of absence during the year, on a prorated basis with no longevity pay for the period of the disability leave of absence.

E. Family and Medical Leave. Family and medical leave shall be granted in accordance with the Family and Medical Leave Act of 1993, as amended, in accordance with the Policy and Procedure Manual of the City of Middletown.
ARTICLE XIII – MISCELLANEOUS BENEFITS

A. **Influenza Shots.** Each member may receive free annual immunization against influenza, at such times as may be scheduled by the Health Department.

B. **Skin Tests for Tuberculosis.** Each member and his family, who lives in Butler County, is eligible for free skin tests. They may be obtained at the Butler County Clinic located at 701 North University Boulevard.

C. The City will provide, upon request by any member of the Division of Police, an inoculation for prevention of Hepatitis, Type B.

D. The City will provide, upon request, within a reasonable time, an AIDS test for any member that the City determines has been exposed to the AIDS virus while performing his duties. The City will pay any legitimate cost for the test not covered by medical insurance or workers' compensation, as well as reasonable travel expense.

E. Upon retirement a member may purchase his duty weapon for the sum of $1.00.

ARTICLE XIV – DRUG TESTING

A. **Purpose of Drug Testing Program.**

1. The Police Department has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that it's employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug dependence or illegal drug use.

2. A reasonable drug testing program must establish a balance between the rights of the employee and maintaining a police agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves with diligence to ensure that employees can perform their duties without endangering themselves or the public.

3. There is sufficient evidence to conclude that use of illegal drugs and/or drug abuse (whether illegal or prescription drugs) seriously impairs an employee's performance and general physical and mental health. The illegal use of drugs by police employees (therefore, possession) is a crime in this jurisdiction, and clearly unacceptable. There are unique corruption hazards with drug use by the police. Therefore, the Police Department has adopted this written policy to ensure an employee's fitness for duty as a condition of employment, and
(a) To ensure drug tests are ordered based on individualized reasonable suspicion or other lawful basis;

(b) To establish a written policy on drug testing in the department; and

(c) To inform the employee of the conditions under which drug testing is a requirement of employment.

B. Definitions.

1. Drug Test – A urinalysis test administered under approved conditions and procedures to detect drugs.

2. Reasonable Suspicion – An apparent state of facts and/or circumstances found to exist upon inquiry by the supervisor, which would induce a reasonably intelligent prudent person to suspect the employee was under the influence of drugs/narcotics.

C. General Rules.

1. Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisor of the medication prescribed. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited.

2. All property belonging to the Department, including the entire premises of the department, is subject to inspection at any time without notice as there is no expectation of privacy.

   (a) Property includes, but is not limited to, police owned vehicles, desks, files, and storage lockers.

   (b) Employees assigned lockers (including those that may be locked by the employee) are subject to inspection by the employee’s supervisor after reasonable advance notice (unless the requirement for notice is waived by the Chief of Police) and in the presence of the employee.

3. All police employees who have a reasonable basis to suspect that another employee is illegally using drugs or narcotics, shall immediately report the facts and circumstances of such use to their supervisor.

4. Failure of any police employee to comply with the intent or provisions of this general order constitutes grounds for disciplinary action, including dismissal or other action determined appropriate by the Chief of Police. Refusal by a police employee to take a required test, i.e.: a test that is ordered based upon reasonable suspicion as defined in Paragraph B(2) above, or under circumstances described in
Paragraphs D(1) and (2) below, or follow this general order, will result in immediate relief from police duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required test within two (2) hours of receiving the order.

D. **Policy – Drug Testing/Urinalysis.**

1. Employees of the department shall be required to submit to a test for drug or narcotic use as outlined below:

   (a) The Chief of Police may order a drug test when he has reasonable suspicion of drug use by an employee due to one or more of the following criteria: (1) incapable to perform his/her assigned duties, (2) reduced productivity, (3) excessive vehicle accidents, (4) high absenteeism, (5) other behavior inconsistent with previous performance, or (6) where he has reasonable suspicion that an employee is using, has possession of, has sold or is under the influence of drugs (illegal or prescribed), or narcotics. The evidence shall be made available to the employee.

   (b) A police supervisor may order a drug test:

      (i) Where he or she has reasonable suspicion that an employee is using, or is under the influence of drugs or narcotics;

      (ii) Where the employee uses force which results in hospital admission, or property damage.

      (iii) Where there is on-duty injury to the employee or another person which requires hospital admission.

   (c) The employee shall be advised of circumstances surrounding the order to test under Section D(1)(b)(i)-(iii) above.

   (d) Whenever practical, prior approval should be obtained from the Chief of Police before the supervisor orders the test.

   (e) A supervisor who orders a drug test when he has reasonable suspicion of an employee's usage or possession, or that an employee is under the influence of drugs, shall forward a report containing the facts and circumstances directly to the Chief of Police.

   (f) Test results reporting illegal drugs, narcotics, the use of controlled substances without a lawful prescription, or the abuse of prescribed drugs, will be submitted as a part of a written complaint by the supervisor ordering the test, consistent with Section D(1)(e) above requesting departmental action.
2. Sworn employees assigned to the drug/narcotic enforcement unit shall be required (in addition to those situations set forth in Section 1 above) to submit to a periodic unannounced drug test at the direction of the Chief of Police.

   (a) Prior to accepting a voluntary assignment in the drug/narcotic enforcement unit, an employee shall execute a written agreement and release stating that he/she fully consents to any medical, physical, psychiatric, psychological, or other reasonably required testing, including urine and/or blood testing for drug or narcotic substances. In addition, the agreement or release shall give the Department permission to have access to all the employee’s medical records.

   (b) The Chief of Police shall select the date and time when each employee assigned to the unit will be tested. The test shall be administered a minimum of once a year.

3. In the event that an employee is required to submit to a drug test, the following guidelines should be observed:

   (a) The employee shall be granted enough time to change from uniform to civilian clothing.

   (b) The employee will be transported to the designated testing center by a supervisor.

   (c) The employee may request that a police department employee of his/her choice be present for the transportation and test, provided said individual is off duty and reasonably available.

   (d) A controlled test will be conducted by personnel of the testing site.

   (e) Subject to the rules of the testing authority the employee may have an observer for the test.

   (f) The sample will be properly labeled, sealed, and turned over to the site personnel by the employee.

   (g) All parties involved will be transported back to the police department.

   (h) If the employee is held over his/her assigned time, he/she will be compensated for that time.

4. A negative test result shall bar the City from further discipline, for refusing to submit to a test, and the use or abuse of drugs, in violation of this policy.

5. A positive result, after a second qualifying test, may result in discipline.
6. Employees who have been found to be using illegal drugs, narcotics or abusing prescription drugs shall be provided a hearing before the City Manager or his designee where evidence is presented and preserved, before final action is taken against the employee.

7. The City will indemnify and save the Union harmless from any action alleging the constitutionality of the administration of this drug testing provision.

E. **Random Drug Testing.** Random drug testing will be implemented in accordance with the General Orders of the Departmental Manual, Middletown Division of Police. The General Order implementing random drug testing shall not be amended without the agreement of the parties.

**ARTICLE XV – EMPLOYEE RIGHTS**

A. All contacts, verbal or written, be it disciplinary or any other, between a member and a superior officer, shall be conducted in a calm, professional manner.

B. During the course of an investigation of member misconduct where discipline is likely to result to the affected member, the member may request the presence of a union representative during the investigating interview, provided the representative is reasonably available.

C. The member being interviewed shall be informed verbally of the nature of the investigation before the interview commences. The member shall be permitted to take notes of the interview.

D. When a member is being interviewed, where discipline may result, the member shall answer truthfully and completely all questions concerning the investigation posed to him by the interviewing officer. A member who refuses to answer such questions shall be informed that his refusal to answer constitutes insubordination and can be a basis for disciplinary action.

E. The City agrees not to suspend without pay, demote or discharge a member without first offering the member the opportunity to provide an explanation of the circumstances surrounding the charge brought against him, to the Chief of the Division of Police. The member may have an FOP representative, and his attorney, present during the meeting provided the individuals selected are reasonably available. Meetings, where practical, shall be conducted at hours reasonably related to the member's shift, preferably during the member's working hours.

F. Written notice of the charge(s) against a member, and a description of the nature of the evidence upon which the charge(s) is based shall be given the member in advance of the meeting described above.
G. All entries in personnel files relating to disciplinary action or performance shall be provided to the member by copy and such member is entitled to place a letter of explanation or rebuttal to be attached to any such entry so long as said explanation or rebuttal does not exceed 300 words in length and is submitted within 7 working days of the date the member is provided with the entry.

H. A member shall be provided a copy of his/her personnel file, upon request, if such member has been disciplined or is eligible for retirement. A copy of a member's file shall be provided to them at no cost, no more than one time in any three year period.

I. A committee of no more than three (3) members of the bargaining unit will meet with representatives of management from time to time for the purpose of discussing subjects of mutual concern. Meetings may be requested not more than once every ninety (90) days, except upon agreement by both parties. There shall be no obligation upon the City or the Union to renegotiate working conditions, pay or any other policy or practice which may be the subject of such discussions. Meetings shall be limited to two hour's duration. The party requesting the meeting shall submit a proposed agenda in writing five (5) days prior to the scheduled meeting. Those items not considered during the Labor Management Meeting may be resubmitted in writing for agendas of subsequent meetings.

ARTICLE XVI – LAYOFF/RECALL

A. Layoff/Bumping. In the event the City should lay off police personnel such lay offs shall be solely in accordance with this Article and in lieu of any provisions in Chapter 124 of the Ohio Revised Code or any conflicting provisions of the City Charter or City policy. For the purpose of this agreement, seniority shall be the total of service within any sworn police position with MPD, less any time which constitutes a break in service. For layoff purposes only, seniority shall constitute time in rank, subject to the provisions herein.

1. Patrol officers with the least seniority shall be laid off first.

2. In the event the City should reduce the number of police supervisors, the supervisors with the least time in rank shall bump to the next lower rank.

3. In the event the City should reduce the number of Deputy Chiefs, such Deputy Chief shall bump to the lower rank of Lieutenant. A Deputy Chief reduced in rank shall bump the Lieutenant with the least amount of time in grade. A Lieutenant reduced in rank shall bump the Sergeant with the least amount of time in grade. A Sergeant reduced in rank shall bump the least senior Patrol Officer. A supervisor bumped into a lower supervisory rank will be placed in the lower rank based upon the employee's total time as an employee of the Middletown Police Department. Once bumped into the patrol rank, the bumped member shall become the senior ranking officer in the patrol rank for the purposes of recall only. For layoff purposes, the employee bumped into the patrol rank is placed according to his departmental seniority. This bumping procedure shall continue until no lower rank exists.
4. An employee who is reduced in rank shall be reinstated to his or her previous rank in reverse order of bumping and before any competitive test is given for a supervisory opening.

5. In the event a member is laid off, he or she shall receive payment for earned but unused vacation and/or holiday (to include current calendar year) sick leave conversion, uniform maintenance, and clothing allowance with his termination pay.

B. Recall. Members who are on lay-off shall be placed on a recall list for a period of two years and shall be recalled in reverse order of their layoff with the last member laid off being the first to be called back, and continuing in like manner until the required number of members has been obtained.

C. Recall notification. No new member shall be hired until all members who have been laid off in the previous two years have been given the opportunity to return to work. Laid off members will be notified by registered mail at their last known address to return to work within twenty one calendar days. Failure to report within the time limit removes them from the recall list.

D. Layoff/Termination. A member who is on layoff for a period of two years is automatically terminated and loses all seniority.

ARTICLE XVII – SAVINGS CLAUSE

This Contract is meant to conform to and should be interpreted in conformance with the Constitution of the State of Ohio and United States of America and all applicable State and Federal Laws. Should any part of this Contract be held invalid by operation of law or by any tribunal of competent jurisdiction or should compliance with or enforcement of any part of this Contract be restrained by any such tribunal pending a final determination as to its validity, such invalidation or temporary restraint shall not invalidate or affect the remaining portions of this Contract or the application of such portions to persons or circumstances other than those to whom or to which the Contract has been held invalid or has been restrained. In such an event and upon written request by either party, the parties to this Contract shall meet at mutually agreeable times to attempt to agree upon a substitute provision. All other provisions of this Contract shall remain in full force and effect for the duration of this Contract.

ARTICLE XVIII – TOTAL AGREEMENT, HEADINGS AND GENDERS

A. The provisions of this Contract constitute the entire written Contract between the City and the F.O.P. Neither party shall be bound by prior written or verbal agreements.

B. It is understood and agreed that the use of headings after Articles is for convenience only and that no heading shall be used in the interpretation of any such Article nor affect any interpretation of any such Article.
C. Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular and words whether in the masculine, feminine or neuter genders shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

ARTICLE XIX – EMBODIMENT

The two parties to this Contract jointly and separately agree that this Contract embodies all applicable provisions relating to members covered.

The City and Lodge #36 each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter during the course of collective negotiations preparatory to the signing of this Contract. Arrangements, provisions and procedures previously agreed to by the parties, either formally or informally, shall henceforth be void as of July 1, 1984, unless included herein.

ARTICLE XX – INJURY LEAVE

Employees are entitled to receive injury leave for on-the-job injuries, in accordance with the conditions and limitations set forth in this article. Such leave shall be in addition to all other leaves provided in this agreement.

A. An on-the-job injury is a physical injury that an employee suffers during the course and scope of his/her employment for the City of Middletown. On-the-job injury does not include pre-existing injuries, injuries suffered at the workplace which are not in the course and scope of the employee’s work activity, psychological or psychiatric injuries or conditions. However, any member who suffers a heart attack, is over forty (40) years of age and has been employed by the City of Middletown for a period of ten (10) consecutive years as a police officer shall be presumed to have suffered an on-the-job injury.

B. An employee who suffers an on-the-job injury shall receive up to one hundred and fifty (150) working days of injury leave. Effective January 1, 2020, with approval of the Police Chief, an employee’s injury leave may be extended up to 180 additional working days.

1. Injury leave shall be used consecutively from the date of the injury, except that if an employee has not exhausted the leave for an injury, he/she may take such leave for the same injury at anytime within four (4) years of the on-the-job injury. However, any such non-consecutive use of injury leave shall be available only after the employee uses three (3) consecutive days of sick leave before each such non-consecutive use of injury leave, except where such nonconsecutive use occurs
within seven (7) calendar days of the date of injury. In no event shall injury leave be available more than four (4) years after the initial date of the injury.

C. In order to be eligible for injury leave, the employee must submit, within twenty-four (24) hours of the on-the-job injury, a report, in a form established by the employer, to the appropriate supervisor. In addition, the employee must submit to the employer, within five (5) days of the on-the-job injury, a physician's statement, describing the nature of the injury, limitations on the employee's ability to work, and an expected date of return to work. If an employee is hospitalized immediately following the injury, he shall submit the physician's statement within five days after his dismissal from the hospital to the employer.

1. If the employee fails to comply with the requirements of paragraph C of this article, the first ten (10) days of leave shall be charged as sick leave and subtracted from the injury leave balance, unless the employee fails to submit either the report or the physician's statement within thirty (30) days of the injury, in which case, the employee shall lose his/her entitlement to any injury leave.

D. An employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the employer from time to time to submit himself for a medical examination by a licensed physician, selected by the employer. The employer will pay any legitimate cost for examination that the employee's medical insurance or workers' compensation does not cover, including travel expenses.

If an employee refuses to submit to a medical examination or if the report from the physician conducting the medical examination provides that the employee is either not injured or is able to return to work, further injury leave compensation may be suspended or denied.

If the report from the physician selected by the city is in conflict with the report submitted by the member's physician regarding the nature of the injury, limitations on the member's ability to work or the expected date of return to work, the member shall be examined by a third physician selected by the employer from a list of physicians to be mutually agreed to by the parties. The opinion of said third physician shall be determinative.

E. An aggravation or re-injury of an existing injury or condition shall be treated as part of the original injury, and shall be subject to the limitations in paragraph B of this Article. The employer retains the right to require written evidence of the aggravation or re-injury from the employee’s physician. This provision is subject to paragraph D of this Article. An employee who suffers an on-the-job incident or accident resulting in a new injury to a previously injured area of the body will be eligible for the full benefit described in paragraph B of this Article.

F. A member who is injured and unable to perform his regularly assigned duties, may be assigned at the sole discretion of the Chief of the Division to perform duties not requiring great physical exertion in lieu of receiving injury leave compensation, with the approval of the member’s physician or the employer's physician as set forth in paragraph D, above.
G. A member who has exhausted all 150 days of injury leave and is still unable to return to his/her regular duties shall be permitted to use up to 40 days of sick leave. If, after this 40-day period, the employee is still unable to return to his/her regular duties, the member shall use any accrued but unused banked time off (i.e., holidays, vacation days, personal days or compensatory time) before using any sick time. If the employee returns to his/her regular duties, all the banked time used at the end of injury leave (except time that was required to be used in a previous year) will be immediately credited back to the employee’s leave bank. Any time so credited shall then be deducted from the member’s sick leave bank.

1. A member who has exhausted all 150 days of injury leave and is still unable to return to his/her regular duties shall be permitted to apply for an extension of paid injury leave with the Police Chief as described under subsection B above. If the extension is denied or the member has exhausted paid injury leave under this Article, and the member is still unable to return to his/her regular duties, the member shall be permitted to use up to 40 days of sick leave. If, after this 40-day period, the employee is still unable to return to his/her regular duties, the member shall use any accrued but unused banked time off (e.g., holidays, vacation days, personal days or compensatory time) before using any sick leave. If the employee returns to his/her regular duties, all the banked time used at the end of injury leave (except time that was required to be used in a previous year) will be immediately credited back to the employee’s leave bank. Any time so credited shall then be deducted from the member’s sick leave bank.

2. If the employee resigns or terminates employment for any reason (except as a result of a new injury as defined in paragraph A of this Article) within six (6) months of returning to regular duties, banked leave time that had been credited will then be deducted from the member’s bank and such time credited back to the member’s sick leave account.

H. Extensions of paid injury leave beyond 150 working days under subsection B are not subject to the grievance and arbitration provisions under Article VI.

II. Employees who are injured while at work who are under the influence of alcohol or drugs, as prohibited by Article XIV of this Agreement, are not eligible for injury leave under this Article.

IJ. In an effort to expedite the processing of medical claims for employees who have suffered a job related injury (as defined in Article XX(A)), the City agrees to waive the 14-day "protest period" provided by the State Bureau of Worker's Compensation (BWC) in connection with BWC's approval or denial of an MRI test.

ARTICLE XXI – TERMINATION
This Contract shall become effective November 1, 2015 November 1, 2019 and shall terminate on October 31, 2018 2021.

SIGNATURES

FOP LODGE #36

______________________________ ________________________________
Dennis Jordan James Palenick
President, FOP Lodge #36 City Manager
Bargaining Committee Member

______________________________ ________________________________
Jason Wargo, Vice President David Birk
Bargaining Committee Member Police Chief

______________________________ ________________________________
Ryan Rogers Alexander Ewing
Bargaining Committee Member Attorney, Chief Negotiator and on behalf
of the Law Director

______________________________ ________________________________
Conner Kirby
Bargaining Committee Member

______________________________ ________________________________
Holly Owens
Bargaining Committee Member

______________________________ ________________________________
Cristopher Kelly
Bargaining Committee Member

______________________________ ________________________________
Malcolm Tipton
Bargaining Committee Member

CITY OF MIDDLETOWN

______________________________
James Palenick
City Manager

______________________________
David Birk
Police Chief

______________________________
Alexander Ewing
Attorney, Chief Negotiator and on behalf of the Law Director

______________________________
Malcolm Tipton
Bargaining Committee Member
### Wage Scale 1

**PATROL OFFICERS HIRED BEFORE NOVEMBER 1, 2019**

#### Effective January 1, 2020 (3%)

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## Wage Scale 2

**PATROL OFFICERS HIRED NOVEMBER 1, 2019 OR LATER**

### Effective January 1, 2020 (3%)

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TO: Cris Kelly, FOP President
FROM: Rodney Muterspaw, Chief of Police
SUBJECT: Letter of Understanding: Union Business Leave
DATE: November 30th, 2015

Article III, Section B, of the Contract Between the City of Middletown and FOP Lodge 36, titled “Union Activity” states, in part, “No compensation shall be paid for any Union business conducted on their own time or days off.” The Union raised the issue of a member working Midnights who is scheduled to meet with the Ohio Police and Fire Pension board for purposes of arranging their retirement. In the past, Union members working the Midnight shift have been forbidden to take Union Business Leave in these circumstances, as the meeting took place outside of their working hours.

Management and the Union agree that a member is entitled to 8 hours of Union Business Leave for the purpose of attending a pre-retirement meeting with OP&F regardless of what shift they are working, provided the member is scheduled to work on that day, or, in the case of members scheduled to work the Midnight shift, the day prior to the meeting.

Cris Kelly, President, FOP 36

Rodney Muterspaw, Chief of Police
EXHIBIT "B"

DRAFT 9/3/2020

CONTRACT BETWEEN

THE CITY OF MIDDLETOWN

AND

F.O.P. – LODGE #36

(SERGEANTS AND LIEUTENANTS BARGAINING UNIT)

November 1, 2015 – October 31, 2018
November 1, 2019 – October 31, 2021
### TABLE OF CONTENTS

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Signatures ........................................................................................................................................

Wage Scale 1 – Patrol Officers Hired Before November 1, 2019 ...........................................
Wage Scale 2 - Patrol Officers Hired November 1, 2019 or Later ..........................................
Letter of Understanding re: Union Business Leave Dated November 30, 2015........ 37
This Contract, made and entered into at Middletown, Ohio, by and between the City of Middletown, a Municipal Corporation, as Municipal Employer, hereinafter referred to as "City", and Lodge #36 Fraternal Order of Police, as the representative of Sergeants and Lieutenants who are employed by the City of Middletown in the Police Division, hereinafter referred to as "Lodge #36";

Both of the parties to this Contract are desirous of reaching an amicable understanding with respect to the employer-employee relationship which exists between them and to enter into an agreement specifying rates of pay, hours of work, and conditions of employment; and

The parties to this contract agree that, where the contract deals with a particular subject, the contract takes precedence over sections of Ohio law, City ordinances, administrative regulations, and rules of the Chief of Police, unless specifically prohibited by Ohio law, court decision, or a decision by the State Employment Relations Board.

Where this contract does not speak to a particular subject, then the relevant section of Ohio law, City ordinance, Administrative Regulations or the rules of the Chief of Police shall prevail.

ARTICLE I – CONSIDERATION

A. Nondiscrimination. The parties agree that their respective policies will not violate the rights or discriminate against any Sergeant or Lieutenant covered by this Contract because of sex, creed, color, age, national origin, association, affiliation, or non-association or in the application or interpretation of the provisions of the Contract.

AB. No Verbal Statement. The following constitutes an entire Contract between the parties; no verbal statement shall supersede any of its provisions.

BC. Compliance with Terms. It is agreed that all expenditures or compensation to be paid to Sergeants and Lieutenants in accordance with this Contract must first meet the requirements and procedures required by law under the provisions of the Ohio Statutes.

ARTICLE II – RECOGNITION

The City recognizes Lodge #36 as the exclusive representative for all Sergeants and Lieutenants of the Police Division, as defined in this paragraph, for the purpose of collective bargaining with the City on questions concerning wages, hours and other conditions of employment. The bargaining unit shall include all persons employed in the rank of Sergeant or Lieutenant. Members of the bargaining unit are referred to hereinafter as "Members".
ARTICLE III – LODGE #36 ACTIVITIES

A. Lodge Negotiating Committee. Lodge #36 shall advise the City of the names of its negotiators. The number of negotiators designated for the bargaining unit of Patrol Officers and the bargaining unit of Sergeants and Lieutenants shall not exceed a total of seven (7). Five (5) representatives of the total of seven (7) shall be paid regular salary for time spent in negotiations during regular working hours; no payment will be made for negotiating time outside the representatives' normal workday. No more than three (3) representatives shall come from any one platoon or other subsection of the Police Division.

The name(s) of the duly chosen representatives of the bargaining unit shall be submitted to the City Manager or his designee and Police Chief sufficiently in advance of regularly scheduled bargaining meetings, so as to permit scheduling for continuity of operations within the department.

B. Union Activity. Lodge #36 shall have up to a total of 400 hours of Union business leave per agreement year, with full pay for the Union President and/or his designees to participate in conventions, pension business, educational conferences, grievance handling and to attend to the normal operating functions of the Union, excluding contract negotiations. The participation of more than two (2) members in the above activities under the provisions of this paragraph shall be subject to approval by the Chief of Police. Sufficient time off with pay will be deducted from the total hours so stated above on an hour for hour basis. Notice of five (5) working days will be given the Chief of Police for the use of this time. There shall neither be a carryover nor an accumulation of unused leave to the next agreement year. Necessary contacts between the President and bargaining unit members shall be made during non-productive and off time where possible. In the event this is not reasonable, time may be deducted on an hour for hour basis from the total hours consistent with the policy above. No compensation shall be paid for any Union business conducted on their own time or days off. This does not pertain to private discussion between officers.

C. Bulletin Boards. The City shall provide bulletin board space for Lodge #36 use in the Day Room. Material posted thereon shall be the responsibility of the Lodge and shall relate only to Lodge meetings, elections, social events, reports of Committees or the Lodge Board of Directors and decisions affecting the Lodge or member(s) in the bargaining unit. Material placed on the bulletin board shall not contain anything political or controversial, or anything reflecting upon the City, any of its members or officers, or any labor organization among its members, and no material, notices or announcements which violate the provisions of this section shall be posted.

The City shall permit Lodge #36, by its officers, to use interdepartmental mail and telephone (local calls only) for union business. Lodge #36 shall have access to telephone (long distance calls), postal mail, reproduction equipment, and facsimile equipment; however, the actual costs of use of said equipment shall be paid by Lodge #36. The use of telephones, reproduction equipment and facsimile equipment by Lodge #36 shall be subject to availability.
D. **Dues Deductions.** The City agrees to deduct from the wages of any Sergeant or Lieutenant, who is a member of Lodge #36, all Lodge #36 periodic dues, initiation fees, and assessments uniformly required of members on presentation of a written deduction authorization by such member. Lodge #36 will notify the City from time to time with respect to the dues and charges and its current membership. Further, the Lodge agrees to save the City harmless in the event of any legal controversy with regard to the application of this provision. Nothing in this section shall be construed to require any member of the bargaining unit to become a member of Lodge #36.

E. As of November 1, 1989, all members in the bargaining unit who are not members in good standing of Lodge #36 shall pay a fair share fee to Lodge #36. All members in the bargaining unit hired after November 1, 1989, who do not become members in good standing of Lodge #36, shall pay a fair share fee to Lodge #36 effective upon the member’s date of hire. Lodge #36, by its treasurer, shall certify to the City the fair share amount within ten days of the date of execution of this Agreement. Such amount shall remain in effect until such time that a new amount is certified to the City by the treasurer. The fair share amount shall not exceed dues paid by members of Lodge #36. The amount of said fair share shall be deducted from the wages of such member without the requirement of a written authorization for such payroll deduction and shall be paid to Lodge #36 in the same manner as dues deductions provided for in Section D hereof.

EE. There shall be two (2) members from the Division of Police appointed to the city-wide Safety Committee. One shall be designated by the Chief of Police; the other shall be designated by the President of Lodge #36.

**ARTICLE IV – MANAGEMENT RIGHTS**

FOP Lodge #36 recognizes the rights of the City and the Chief of the Police Division to operate and manage its affairs in all respects, in accordance with its responsibilities and the powers or authority which the City has not abridged, delegated or modified by this Contract and such powers or authority are retained by the City.

These management rights include, but are not limited to the following:

A. To utilize personnel, methods, procedures, and means in the most appropriate and efficient manner possible.

B. To manage and direct the members of the Police Division.

C. To hire, schedule, promote, transfer, assign, train or retrain members in positions within the Police Division.

D. To suspend, demote, discharge, or take other appropriate disciplinary action against the member(s) for just cause.
E. To determine the size and composition of the work force and to lay off member(s).

F. To determine the shift schedules, days and starting and quitting times for the Police Division.

G. To determine the mission of the City and the methods and means necessary to efficiently fulfill the mission including: the transfer, alteration, curtailment, or discontinuance of any services; the establishment of acceptable standards of job performance; the purchase and utilization of equipment for the performance of services.

H. The City has the right to schedule overtime as required in the manner most advantageous to the City and consistent with the requirements of municipal employment in the public interest.

I. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the member(s).

J. Contracting and Subcontracting. FOP Lodge #36 recognizes that the City has statutory rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested exclusively in the City.

K. The City retains the right to establish Police Division rules, regulations, and rules of conduct. Rules, regulations, and rules of conduct which are specifically cited by provisions of this contract may not be changed without negotiations and agreement of FOP Lodge #36.

L. The above rights of Management are not all-inclusive but indicate the type of matter or rights which belong to and are inherent to Management. Any of the rights, powers, or authority the City had prior to the signing of this Contract are retained by the City, except those abridged, delegated, or modified by this Contract.

**ARTICLE V – PROHIBITION OF STRIKE**

Upon notification, confirmed in writing, by the City to Lodge #36 that certain of its members, who, in conflict with Chapter 4117 ORC, are engaged in a wildcat STRIKE, slowdown, concerted non-show-up or speedup, the Lodge shall immediately and in good faith have the President of the Lodge, order in writing such members to return to work and provide the City with a copy of such an order. In the event that the wildcat STRIKE, slowdown,
concerted non-show-up or speedup occurs, the Lodge agrees to take all reasonable, effective and affirmative action to secure the members return to work promptly.

ARTICLE VI – GRIEVANCE PROCEDURE

A. 1. A grievance is defined as a dispute over the meaning and application of the terms of this Contract, or disciplinary action, taken against a member covered by this agreement. Each written grievance must state the article of the Contract where the violation has occurred and the remedy requested to settle the grievance.

2. Any step in the grievance procedure outlined below may be skipped on any grievance by mutual consent. In the absence of such mutual consent at any step where a response is not forthcoming within the specified time limits, the grievance will be presumed to have been denied. In such a case the grievant must present his grievance to the next step in the grievance procedure in order to obtain further consideration. A copy of all grievances and responses will be forwarded to the City Manager or his designee and the President of the FOP.

Step 1. When a member has a grievance, he shall within seven (7) calendar days of the time within which said member learned of or should have learned of the occurrence and the facts upon which the grievance is based, present said grievance to the appropriate Deputy Chief. If the grievance cannot be resolved within five (5) calendar days, the member may proceed to Step 2 of this grievance procedure by filing his grievance in writing with the Chief of Police. Grievances based on disciplinary action shall proceed immediately to Step 2 of this grievance procedure.

Step 2. The grievance shall be presented in writing to the Chief of Police not later than seven (7) calendar days after said discussions with the member's immediate supervisor in Step 1. If the grievance is not presented within said time period, it will not be further considered.

Every reasonable effort shall be made to schedule a meeting within seven (7) calendar days of the filing of the grievance at Step 2. The Chief of Police shall respond within five (5) calendar days after the meeting. If the Chief of Police fails to answer, in writing, within five (5) calendar days or his answer is unacceptable to the grievant, the grievant may proceed with Step 3.

Step 3. The grievance shall be presented to the City Manager or his designee no later than seven (7) calendar days after the receipt of an unacceptable decision rendered at Step 2, or within seven (7) calendar days after the seven (7) calendar day period in which the response is due. If the grievance is not so presented, it will not be further considered. A meeting shall be scheduled within seven (7) calendar days after the filing of the grievance at Step 3. The decision shall be given within seven (7) calendar days after the meeting.
days of said meeting. If the aggrieved member does not notify the City Manager or his designee through the President of the FOP of his dissatisfaction with the decision rendered, the grievance shall be considered resolved. If the City Manager or his designee fails to answer in writing within the seven (7) calendar days, the grievance will be presumed to have been denied.

Step 4. Failure to resolve any grievance processed through Step 3 will result in the grievance being referred to an Arbitrator, provided written notice of the same is made by the FOP President to the agency from which the Arbitrator is to be provided, with a copy of the notice also to be served upon the City Manager or his designee, within seven (7) calendar days after the receipt of the decision of the City Manager or after the seven (7) calendar day period in which the decision is due. In the event that the FOP President should fail to serve such written notices, the grievance shall be considered settled.

The Arbitrator shall be chosen from a listing of fifteen (15) names provided by the American Arbitration Association. The listing may be requested by the FOP and/or the City and the selection and hearing procedures shall be in accordance with the AAA rules.

B. 1. The parties understand and agree that in making this Contract they have received for its term all bargaining issues which were or which could have been made the subject of discussion. The arbitral forum herein established is intended to resolve disputes between the parties only over the interpretation or application of the matters which are specifically covered in this Contract and which are not excluded from arbitration. Excluded from arbitration are grievances which question the exercise of rights set forth in Article IV of this Contract entitled MANAGEMENT RIGHTS, or which question the use or application of any right over which the Employer is given unilateral discretion in this Contract, or matters which are properly the subject of collective bargaining.

2. The arbitrator shall have no power to add to or subtract from or modify any of the terms of this Contract or addendum to this Contract nor to rule on any matter except while this Contract is in full force and effect between the parties.

In the event a case is appealed to an arbitrator and he finds that he has no power to rule on such case, the grievance will be denied.

3. The award of the arbitrator shall be based exclusively on evidence presented at the arbitration hearing.

4. The expenses of the arbitrator shall be shared equally by the parties. Each party shall make arrangements for and pay the expenses of witnesses which are called by them.
5. The arbitrator’s decision shall be final and binding on the FOP, on all Bargaining Unit Members, and on the City.

6. The decision of the arbitrator, in any case, shall not require a retroactive wage adjustment in any other case.

7. It is specifically understood and agreed that in no event shall Employer condonation of any past infractions of any work rule, regulation, duty, responsibility, or policy be found to mitigate, in whole or in part, any discipline imposed by the Employer for any current infraction of any work rule, regulation, duty, responsibility, or policy, nor shall an arbitrator so find; nor shall an arbitrator have the power to mitigate any discipline imposed by the Employer based upon a member's length of service with the Employer.

C. FOP representation at Steps one and two of the grievance procedure shall be limited to the designated representative and the aggrieved member. The FOP President and/or Legal Counsel may accompany the grievant and the designated representative at Steps 3 and 4. By mutual agreement additional persons may be designated to attend.

D. Decisions made at any level below that of the Chief shall not be interpreted as setting a precedent, and the Chief reserves the right to take official action without prejudice, based on his own findings in each grievance.

E. In cases of alleged errors in pay, the City shall not be required to pay back wages for pay periods prior to the time the member seeks to have the error adjusted. The member must seek such an adjustment during the pay period immediately following the pay period in which the alleged error occurred. In order to have any pay dispute resolved by the grievance procedure, the member must file his grievance within five (5) calendar days after receipt of the pay on which the error was to be adjusted or within five (5) calendar days of written notification that no adjustment would be made.

F. The City is authorized to pay grievance settlements.

G. By mutual written agreement of the parties, time limits as set forth in the grievance procedure may be extended.

H. Class grievances may be initiated by the Lodge #36 at Step 2 of the grievance procedure, subject to the time limits of Step 1.

I. Discipline includes reduction in pay or position, removals, and suspensions, with or without pay and written reprimands. Written reprimands may be kept in a member's personnel file for up to two years. After two years if no further disciplinary action has been taken against the member, the written reprimand will be expunged from his file. After expungement a reprimand cannot be used for any purpose.

J. The grievance form will be subject to approval by the FOP and the City.
K. Letters of counseling may be kept in a member’s personnel file for up to six (6) months. After six (6) months if no further disciplinary action has been taken against the member, the letter of counseling will be removed from the member’s file. After removal, the letter of counseling cannot be used by the employer for any purpose.

ARTICLE VII – WAGES

A. There are hereby established the following bi-weekly pay ranges for certain members of the Division of Police within the service of the City.

1. Employees will receive wage increases as follows:

   January 1, 2020 – 3.0%
   July 1, 2020 – 3.0%
   January 1, 2021 – 3.0%

2. (a) Members hired before November 1, 2019 shall follow Wage Scale 1, attached hereto.

   (b) Members hired November 1, 2019 or later shall follow Wage Scale 2, attached hereto.

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</tr>
<tr>
<td>Hourly</td>
<td>$27.1735</td>
<td>$28.4640</td>
<td>$29.8010</td>
<td>$31.1980</td>
<td>$32.6635</td>
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</table>

<table>
<thead>
<tr>
<th>Sergeant – Effective November 1, 2016 (1.5%)</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
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<tr>
<td>Annual</td>
<td>$57,369.52</td>
<td>$60,093.28</td>
<td>$62,915.84</td>
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<tr>
<td>Bi-Weekly</td>
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<tr>
<td>Hourly</td>
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<table>
<thead>
<tr>
<th>Sergeant – Effective November 1, 2017 (2%)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
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<td>C</td>
<td>D</td>
<td>E</td>
</tr>
<tr>
<td>Annual</td>
<td>$58,216.02</td>
<td>$60,993.28</td>
<td>$63,855.36</td>
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<tr>
<td>Bi-Weekly</td>
<td>$2,240.52</td>
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<tr>
<td>Hourly</td>
<td>$27.9835</td>
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<tr>
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</tr>
<tr>
<td><strong>Annual</strong></td>
<td>$58,517.68</td>
<td>$61,295.52</td>
<td>$64,174.24</td>
<td>$67,182.96</td>
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</tr>
<tr>
<td><strong>Bi-Weekly</strong></td>
<td>$2,250.68</td>
<td>$2,357.52</td>
<td>$2,468.24</td>
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<tr>
<td><strong>Hourly</strong></td>
<td>$28.1335</td>
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<td>$33.8170</td>
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**Lieutenant – Current**

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<tr>
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<tbody>
<tr>
<td><strong>Annual</strong></td>
<td>$64,248.15</td>
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<td>$80,836.05</td>
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<tr>
<td><strong>Bi-Weekly</strong></td>
<td>$2,471.08</td>
<td>$2,587.20</td>
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<td>$2,969.56</td>
<td>$3,109.08</td>
<td>$3,255.08</td>
</tr>
<tr>
<td><strong>Hourly</strong></td>
<td>$30.8885</td>
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<td>$33.8595</td>
<td>$35.4515</td>
<td>$37.1195</td>
<td>$38.8170</td>
<td>$40.6885</td>
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**Lieutenant – Effective November 1, 2015 (1%)**

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<th>A</th>
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<th>C</th>
<th>D</th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual</strong></td>
<td>$64,890.80</td>
<td>$67,940.08</td>
<td>$71,132.88</td>
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<td>$81,645.20</td>
<td>$85,478.64</td>
</tr>
<tr>
<td><strong>Bi-Weekly</strong></td>
<td>$2,495.80</td>
<td>$2,613.08</td>
<td>$2,735.88</td>
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<td>$2,999.28</td>
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<td>$35.8060</td>
<td>$37.4910</td>
<td>$39.2525</td>
<td>$41.0955</td>
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**Lieutenant – Effective November 1, 2016 (1.5%)**

<table>
<thead>
<tr>
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<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual</strong></td>
<td>$65,864.24</td>
<td>$68,959.28</td>
<td>$72,199.92</td>
<td>$75,594.48</td>
<td>$79,151.28</td>
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<tr>
<td><strong>Bi-Weekly</strong></td>
<td>$2,533.24</td>
<td>$2,652.28</td>
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<td>$3,044.28</td>
<td>$3,187.32</td>
<td>$3,336.96</td>
</tr>
<tr>
<td><strong>Hourly</strong></td>
<td>$31.6655</td>
<td>$33.1535</td>
<td>$34.7115</td>
<td>$36.3435</td>
<td>$38.0535</td>
<td>$39.8415</td>
<td>$41.7120</td>
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</tbody>
</table>

**Lieutenant – Effective November 1, 2017 (2%)**

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Annual</strong></td>
<td>$67,181.92</td>
<td>$70,339.36</td>
<td>$73,644.48</td>
<td>$77,106.64</td>
<td>$80,735.20</td>
<td>$84,528.98</td>
<td>$88,496.72</td>
</tr>
<tr>
<td><strong>Bi-Weekly</strong></td>
<td>$2,583.92</td>
<td>$2,705.36</td>
<td>$2,832.48</td>
<td>$2,965.64</td>
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<tr>
<td><strong>Hourly</strong></td>
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<td>$37.0705</td>
<td>$38.8150</td>
<td>$40.6385</td>
<td>$42.5465</td>
</tr>
</tbody>
</table>

3. Members shall participate in the “Performance-Based Compensation” set forth in the Pay & Benefits Ordinance, as adopted by the City Council of Middletown each year. In 2016, the Performance-Based Compensation is set at $500.00.

B. Salary Adjustment.

1. The salary of each member shall be reviewed annually or, as herein provided, by the Chief of Police for the purpose of determining which member shall be entitled to a step increase. The performance evaluations as recorded on prescribed forms in accordance with the system designed by the Chief of Police shall be considered in making recommendations. Each member will be advanced at the time of such review until the maximum step has been reached unless the Chief
of Police notifies the member in writing of the reasons for denial of this advancement. The length of time any member of the bargaining unit shall remain in Step D, E and F, of the pay range before review for possible increase shall be six (6) months.

2. If the advancement is denied by the Chief of Police the following applies:

   (a) The first time advancement is denied the member may appeal the decision directly to the City Manager or his designee whose decision will be final. No grievance may be filed on this matter. If this occurs, the member's salary will be reviewed again by the Chief of Police in three (3) months.

   (b) The second time advancement is denied the member may appeal the decision directly to the City Manager whose decision will be final. No grievance may be filed on this matter. If this occurs the member's salary will be reviewed again by the Chief of Police in three (3) months.

   (c) The third time advancement is denied the decision may be grieved in accordance with Article VI of this contract.

C. **Shift Differential.**

1. For any regularly assigned shift commencing between the hours of 2:45 p.m. and 6:44 a.m. of the following day, shift differential pay shall be as follows:

   (a) For any shift starting at 2:45 p.m. or after, but not later than 7:44 p.m.:

<table>
<thead>
<tr>
<th>Current</th>
<th>$0.60 per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective 11/1/16</td>
<td>$0.80 per hour</td>
</tr>
<tr>
<td>Effective 11/1/17</td>
<td>$1.00 per hour</td>
</tr>
</tbody>
</table>

   (b) For any shift starting at 7:45 p.m. or after, but not later than 6:44 a.m.:

<table>
<thead>
<tr>
<th>Current</th>
<th>$0.45 per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective 11/1/16</td>
<td>$0.60 per hour</td>
</tr>
<tr>
<td>Effective 11/1/17</td>
<td>$0.75 per hour</td>
</tr>
</tbody>
</table>

2. In the computation of overtime under this agreement, the overtime shall be computed including any shift differential.

3. All efforts will be made to notify Sergeants and Lieutenants of changes in their regular shift hours of more than three (3) hours at least 5 days prior to the change. In the event notification is not given, the Sergeant or Lieutenant shall
receive three (3) hours call-out pay, unless the change is necessary to accommodate illness, injury, or some emergency.


1. Effective November 1, 1989, members shall be paid 1-1/2 times their hourly rate for all "hours worked", as defined by the Fair Labor Standards Act, over 40 hours in a work week. Off-duty incident, court time, holidays, injury leave, funeral leave, and call-out time count toward the 40-hour breakover point.

2. If overtime is refused by all officers on a shift, the supervisor in charge shall have the right to hold over, or work, officers as needed, where there are additional police manpower needs, beginning with the least senior officer on duty. If an officer is involved in an ongoing situation, he shall remain at work on overtime at the request of his supervisor. This is the only situation in which overtime will be involuntary. A member shall not be subject to an involuntary holdover more than once in a forty eight (48) hour period, or at anytime when the member is already in an overtime status. An involuntary holdover shall be paid at one and one-half times the member’s regular rate.

All other overtime shall be defined as voluntary. If a member signs up for voluntary overtime or off-duty Contract work, then, that member is obligated to work the overtime or find a suitable replacement. Trading of shifts within the department will be permitted with the permission of the member’s superior officer, and the Chief of Police. A member retains his seniority rights, for holdover purposes, when trading shifts.

3. Members will receive hourly pay for actual time worked with a minimum of three (3) hours' pay for any job connected court appearance while off duty as a witness in a criminal, civil, or juvenile prosecution, including reasonable travel time as described herein. If a member is held in court over three (3) hours, he shall be compensated for the additional hours. If a court appearance is scheduled one hour or less immediately before an officer's shift, he shall be paid overtime for that period. If a court appearance is scheduled up to one hour following the end of his shift, he shall be paid overtime for the period of time from the end of his shift until relieved by the Court. In both situations, payment would be made in accordance with the paragraph 1 of this section.

In proceedings other than those held in the Middletown Municipal Court or in the City Building, a member may report to the City Building to use a city vehicle for travel to and from court. The hours worked will begin upon the member reporting to the administrative offices of the Division of Police to pick up a city vehicle and end when the city vehicle is returned to those offices. If the member chooses to travel directly to the court appearance, the hours worked shall commence fifteen minutes prior to the time set forth in the subpoena. The reasonableness of travel time shall be determined at the sole discretion of the Chief of the Division of Police.
4. Members shall receive at least three (3) hours pay for any extra tour or duty that results from being called out to work.

5. Members will receive hourly pay for actual time worked with a minimum of two (2) hours’ pay for any mandatory job assignment scheduled outside the member's normal work hours including but not limited to staff meetings, training, firearms qualifications and BAC proficiency testing. If the assignment begins during the member's regular scheduled shift or begins at the conclusion of the shift, the member shall not be eligible for this premium pay.

6. Payment under paragraphs (3), (4), (5), and (11) of this Section will be paid at one and one-half times the employee's regular rate of pay.

7. Declared emergencies are defined as any emergency declared by the City Manager as a result of any situation which would endanger the well being of the citizenry of Middletown. Declared emergencies shall be compensated at hour for hour compensatory time while the emergency situation exists.

8. Effective January 1, 2016, all members shall have the option, up to six times per year in accordance with the first payrolls in February, April, June, August, October, and December, of exchanging up to 160 hours (20 days) per year of holiday time earned, but not taken, for pay at the member’s current hourly rate. Any member with fifteen (15) years of service or more may cash in an additional 40 hours (5 days) per year of holiday time earned, but not taken, for pay at the member’s current hourly rate. All holiday exchanges are subject to the following conditions:

   (a) Approval must be given by the Chief of Police and City Manager; and

   (b) There are unused funds available in the Division of Police Salary Budget for payment. In the event unused funds are not available to meet all requests for holiday exchange, preference will be given to DROP eligible members and the distribution of such exchanges shall be at the discretion of the Chief of Police.

9. Before any member shall be officially assigned to act in a higher position for a shift, i.e., eight (8) hours or more, it shall be first offered to other members of the bargaining unit holding such higher position. If none of said members holding such higher position are available, then any member officially assigned to act in a higher position shall be compensated, during the entire period of continuous temporary assignment at the beginning step of the higher classification, or at a rate of 4.7% greater than the regular step of the member, whichever is greater. Rules and regulations for such assignment shall be prescribed by the Chief of Police.
10. Members who are placed on standby status outside their regular work shift at times approved by the Chief of Police shall receive compensation equal to two (2) hours pay for each day on standby.

11. When a member is involved in an off-duty incident requiring the use of his official police powers, and when said police officer is not engaged in employment for any other concern, the police officer shall be paid a minimum of three (3) hours pay for the off-duty incident. Proper documentation in the form of a report of the incident must be filed in the Division of Police prior to payment.

12. A member working in excess of forty (40) hours in one week, as defined by The Fair Labor Standards Act, as amended, shall have the right to request payment of overtime work in compensatory time off on the basis of one and one half hours off for each hour of overtime worked. Time off to use earned compensatory time will be granted within thirty (30) days of the request made by the member. When compensatory time is used, it shall not count as hours worked during the applicable work period for purposes of determining overtime. If the requested compensatory time cannot be scheduled as requested, the member has the option of taking pay in lieu of time off or rescheduling the requested compensatory time.

No member shall be permitted to accrue more than four hundred eighty (480) hours of unused compensatory time and any member who has accrued unused compensatory time to the four hundred eighty (480) hour limit shall be paid in cash for additional overtime worked. Any members who have over 300 hours of accrued unused compensatory time at the time of the execution of this Agreement will be considered “grandfathered” and allowed to continue to have a maximum accrual limit of 480 hours. However, if a Grandfathered Employee’s balance drops below 300 hours, they will become subject to the new 300 hour limit and shall be paid in cash for additional overtime worked. If a member is paid in cash for accrued compensatory time, he/she shall be paid at the member's regular rate at the time of payment.

Upon termination of employment, unused compensatory time shall be paid at the member's average regular rate for the last three (3) years of employment or the member's final regular rate, whichever is higher.

13. The City shall pay the cost incurred by any member who is required by his superior to attend a meeting or function pertaining to his official duties as such member during other than his regular working hours. Such cost shall not include transportation to or from such meeting or function if held within the city, but shall include any meal deemed necessary by his superior in view of the hour during which the meeting or function is held. No such meeting or function shall be called or held without the prior written approval of the Chief of Police and the City Manager.

14. When a member is promoted to a position in a higher class, his salary shall be increased as follows:
(a) Where a promotion occurs up to three months after a step increase: One step increase with anniversary date same as date of promotion (eligible for step increase one year later);

(b) Where a promotion occurs three to six months after a step increase: One step increase with old anniversary date retained (eligible for step increase six to nine months after promotion);

(c) Where a promotion occurs more than six months after a step increase: Two step increases with anniversary date same as date of promotion (eligible for step increase one year later).

E. Longevity.

1. Longevity shall be paid to members at the following rate:

   In December of the calendar year of the attainment of the tenth (10) anniversary and each calendar year thereafter through the fifteenth (15) anniversary of employment, each member shall be eligible for 1% of their existing base salary as of November 30th of the year in which they are paid the longevity.

   In December of the calendar year of the attainment of the fifteenth (15) anniversary and each calendar year thereafter through the twentieth (20) anniversary of employment, each member shall be eligible for 2% of their existing base salary as of November 30th of the year in which they are paid the longevity.

   In December of the calendar year of the attainment of the twentieth (20) anniversary and each calendar year thereafter until retirement or resignation, each member shall be eligible for 3% of their existing base salary as of November 30th of the year in which they are paid the longevity.

   Payment of longevity shall be in separate checks and they shall be paid in accordance with such regulations prescribed by the City Manager in regard to but not limited to such items as partial year payments, death or retirement payments, etc.

2. Partial Year Payments. In the event of an interruption in service, longevity will be determined from a member's last date of active employment.

3. Payment of Longevity.

   (a) Longevity will be paid in a lump sum in December of each year.
(b) In order to receive longevity payments, a member must be on the payroll when such payment is made, except as provided herein.

4. Death or Retirement.

(a) In the event of the death or retirement of a member, longevity due for that year will be paid through the date of death or retirement on the same basis as partial year payment computations. It will not be paid on any terminal pay, but will be paid as a lump sum with any earned terminal pay.

(b) If a member's employment date falls from the first through the fifteenth of the month, longevity will be computed from the first of that month

(c) If a member's employment date falls from the sixteenth through the last day of the month, longevity will be computed from the first of the next month.

F. Payment of Insurance Premiums. Members shall be entitled to participate in the City's health insurance program as recommended by the Health Care Committee and described in the documents on file in the Finance Department.

1. The City agrees to maintain a City Health Care Committee for the purpose of regularly reviewing employee health care needs, and implementing a health care program for its employees. The Committee shall act in accordance with the Final Report of the Health Care Task Force Report dated July 10, 2006, and further amendments by the Committee. If the Committee is not maintained by the City, the City will provide the health care benefits in place at the time of the dissolution of the Committee for the remainder of the Agreement.

2. The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of health issues, including, but not limited to, the selection of carrier, determination of coverage and determination of co-payments, deductibles, and employee contributions, subject to the limitations herein. The City agrees to adhere to recommendations of the Committee as such recommendations apply to the members. The Union shall have one (1) designee that serves on the Committee and may exercise voting rights on behalf of the Union. Any member appointed as the Union’s designee shall be paid for attending the Committee meetings. Any overtime incurred by a member while attending meetings of the committee shall be paid at one and one-half times their regular rate of pay.

3. All coverage shall be subject to the insurance company’s requirements and eligibility.

4. Employees shall have the option to participate in a basic health insurance plan as recommended by the Health Insurance Committee, subject to the following
not to exceed amounts for monthly employee contributions (to be deducted in equal installments not less than one time per month), co-pays, deductibles and co-insurance or those recommended by the Committee, whichever is less:

### Employee Contribution—(Bi-Monthly)

<table>
<thead>
<tr>
<th></th>
<th>Single</th>
<th>Employee &amp; Spouse</th>
<th>Employee &amp; Children</th>
<th>Family</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CURRENT</strong></td>
<td>$43.25</td>
<td>$90.82</td>
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<tr>
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<td>$51.90</td>
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<td>1/1/2017</td>
<td>$57.09</td>
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<td>1/1/2018</td>
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<td>Network</td>
<td>Non-Network</td>
</tr>
<tr>
<td>Single</td>
<td>$750</td>
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<td>Family</td>
<td>$1,500</td>
<td>$3,000</td>
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<tr>
<td><strong>Coinsurance</strong></td>
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<td>70%</td>
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*After deductible

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<td>Out of Pocket**</td>
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<tr>
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<td>Family</td>
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<tr>
<td>Office Visit (PCP/Specialist)</td>
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<td>Urgent Care Copay</td>
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<td>70%*</td>
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<td>ER-Copay</td>
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<tr>
<td>Inpatient Deductible</td>
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<tr>
<td>Outpatient Services</td>
<td>90%*</td>
<td>70%*</td>
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<tr>
<td>Prescription Drug</td>
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<td>Mail-Order (90 days)</td>
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<tr>
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<td>$15</td>
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<tr>
<td>Tier 2</td>
<td>$40</td>
<td>$60</td>
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## Employee Contribution (Bi-Monthly)

<table>
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<tr>
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<th>Employee &amp; Spouse</th>
<th>Employee &amp; Children</th>
<th>Family</th>
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<tbody>
<tr>
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<td>$256.54</td>
<td>$232.12</td>
<td>$332.90</td>
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<tr>
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### Deductible

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### Coinurance*

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### Out of Pocket**

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### Office Visit (PCP/Specialist)

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### Urgent Care Copay

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### ER Copay

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</thead>
<tbody>
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<td>80%*</td>
</tr>
<tr>
<td>Non-Network</td>
<td>60%*</td>
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### Prescription Drug

<table>
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<tr>
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<tr>
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<td>$50</td>
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<tr>
<td>Tier 2</td>
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<td>$120</td>
<td>$70</td>
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**Includes deductible**

*After deductible
Limits placed on employee contributions, co-pays and out-of-pocket maximums in this Agreement do not prevent the City from offering employees alternate health care plans which might have higher or lower contribution levels, co-pays and out-of-pocket maximums.

5. Members who retire under the Police and Firemen's Disability and Pension Fund because of the City's compulsory retirement ordinance, because of inability to work due to disability, or having reached the respective pension funds' retirement age and/or years of service requirements, shall receive Hospital Care and Surgical Care Insurance coverage if the same is not provided by the respective pension fund. No duplication of coverage is permitted.

6. All members shall receive $22,500 group life insurance coverage paid by the City. Members may purchase additional group life insurance consistent with the carrier’s available options. Double indemnity premiums shall be paid by the City on all coverage provided by the City.

7. Any member retiring on or after January 1, 1972, shall receive $5,000 life insurance coverage paid for by the City. Double Indemnity will not be provided on such coverage.

8. The City will indemnify members and provide a defense to members such as the result of his/her employment, in accordance with the provisions of Ohio Revised Code Chapter 2744 and Middletown Codified Ordinance, Section 250.03.

G. Uniforms. Subject to the rules of the Police Division, the City shall provide the original complete uniform for those members required to wear a uniform and such shall remain the property of the City.

1. Uniformed Police Personnel. All members in the Division of Police shall receive unlimited uniform replacement based upon demonstrated need.

2. Non-uniformed Police Personnel. Each eligible non-uniformed Sergeant or Lieutenant of the Division of Police shall be paid a maximum of $1,250.00 annually to cover individual expenditures for wearing apparel. Said amount is to cover future individual expenditures for wearing apparel and will be paid to officers who have been assigned non-uniformed positions effective January 15 and July 15 of each year, in equal installments of $625.00 each, payable on January 15 and July 15 of each year the officer is so assigned.
3. **Clothing and Equipment Maintenance Allowance.** Each member shall be paid a clothing and equipment maintenance allowance on January 15 and July 15 of each year in equal installments as follows:

- **Effective 1/1/2016** $1,000 ($500.00 each installment)
- **Effective 1/1/2017** $1,100 ($550.00 each installment)

4. All monetary allowances under this section of Article VII shall be prorated with no allowance paid for periods prior to hire, after resignation, retirement, death, or dismissal, and during leave of absence without pay and disability leaves of absence.

H. **Canine Allowance.** Members who are designated as canine officers shall be paid $5.00 per day as compensation for expenses associated with the care of their dog while at home. Such payment shall be made in $912.50 installments on January 15 and July 15 of each year. In recognition of the fact that canine officers spend time caring for their dogs while at home, they will be required to be physically present at the police division for only 7.5 hours of their 8 hour shift.

I. **FTO Pay.** Effective 11/26/00 members who are assigned as a Field Training Officer (FTO) shall be paid a $2.50 per hour premium pay for those hours in which they are actually performing FTO duties.

J. **Direct Deposit.** Members agree that all payroll payments will be direct deposited in an account of their choice in compliance with the guidelines established by the City of Middletown Finance Department.

**ARTICLE VIII – HOURS OF WORK**

A. **Work Day - Work Week.**

1. The work week shall consist of forty (40) hours.

2. The work day shall consist of eight (8) hours.

B. **Work Shifts.** The Chief of Police shall establish, publish, and assign members to such work shifts as he may designate.

C. Additional work may be required pursuant to the City's needs.

**ARTICLE IX – VACATION**

A. Effective January 1, 1990, each member will earn vacation credit at a rate of 5/6 of a day for each calendar month employed in the vacation year, to a maximum of 10 working days in one year. During and after the 7th year of service, members earn vacation credit at
the rate of 1-1/4 days for each calendar month employed in the vacation year, to a maximum of 15 working days in one year. During and after the 15th year of service, a member will earn vacation credit at the rate of 1-2/3 days for each calendar month, to a maximum of 20 working days in one year.

A. Effective January 1, 2019, each member will earn vacation credit as noted below:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Permanent Full Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – 4</td>
<td>10</td>
</tr>
<tr>
<td>5 – 9</td>
<td>13</td>
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<td>10 – 14</td>
<td>18</td>
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<td>15 – 19</td>
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<tr>
<td>20 – 24</td>
<td>25</td>
</tr>
<tr>
<td>25+</td>
<td>28</td>
</tr>
</tbody>
</table>

Any permanent full-time employee of the City who received vacation credit in an amount exceeding that in the above schedule in 2017 shall continue to receive the amount of vacation credit they received in 2017 so long as they remain a permanent full-time employee of the City.

1. **Vacation Year and Accrual.** The vacation year begins on January 1 of each year and ends on December 31. Vacation taken in any year is based upon vacation credit earned in the previous year.

2. **One Year Minimum Service.** After one year of service, a member may take that portion of his vacation earned in the previous vacation year.

3. **Non-accrual.** Members on leave without pay for any reason, except injuries on the job, shall not accrue vacation benefits.

4. **Scheduling.** Vacations shall be scheduled on a seniority basis with the approval of the Chief of Police. In general, the Chief of Police shall give as much consideration as possible to the member's preference, while, at the same time, maintaining the staff necessary to meet operational requirements. Vacations may be taken in increments of not less than one-half day.

5. **Vacation credit should be used by year end (subject to departmental rules and regulations).** Upon the approval, in writing, of the Chief of Police, vacation credit may be deferred for one year, provided that which is deferred is used by the second year's end. Any unused vacation must be approved by the City Manager, in writing, in order to be deferred to the next year.
6. Any member may request to receive pay at the member’s current hourly rate for up to forty (40) hours of vacation leave in each year in which they have accrued vacation credit in lieu of using that vacation leave. The request is subject to the availability of funds in the budget to pay such request and must be approved by the Chief of the Division of Police, the Director of Finance and the City Manager.

B. **Longevity Vacation Days.** Each member shall also be entitled to two longevity vacation days annually for the first full five years of service; thereafter, he or she shall be entitled to one additional longevity vacation day annually for each full five years of service.

In the five-year increment years, the member shall be eligible to take this day as of his appropriate anniversary date with the approval of the Chief of Police. During the interim years, this day will be taken as outlined in paragraph A(4).

1. 5 years 2 longevity days
   10 years 3 longevity days
   15 years 4 longevity days
   20 years 5 longevity days, etc.

2. Permanent, full-time members may accumulate and defer a maximum of ten (10) longevity vacation days. These days shall be governed by and used in accordance with City and division vacation regulations.

3. There will not be a cash conversion option for accumulated longevity vacation days, except, a member who voluntarily resigns or retires with two (2) weeks notice or dies and has earned and is eligible to take longevity vacation days will receive pay for those days which he has not taken.

C. **Personal Day.** All members covered by this contract, shall be granted one personal day each year. The personal day must be used in the calendar year granted, and cannot be carried over to subsequent years or accumulated or banked in any manner. The personal day shall not count toward the 40 hour breakover point. This day will be scheduled in the same manner as vacation and longevity days.

D. **Sick Leave Conversion Provisions.** Members may convert sick leave credit to vacation, once a year, on the following basis:

1. **Over 280 hours sick leave credit.** A member with more than 280 sick leave hours credit, may convert all those hours over 280 to vacation credit, at the ratio of 24 sick leave hours for 8 vacation hours, providing that not more than 96 sick leave hours are so converted in any one vacation year, or:

2. **Over 800 hours sick leave credit.** A member with more than 800 sick leave hours credit, may convert all those hours over 800 hours to vacation credit, at the ratio of 8 sick leave hours for 8 vacation hours, providing that not more than 40 sick leave hours are so converted in any one vacation year.
3. The member must have accumulated these days prior to January 1 of the year in which these days are to be converted, and must have sufficient days at the time of conversion.

E. **Terminal Vacation Provisions.** The right to vacation upon separation from the City service shall be as follows:

1. **Resignation.** A member who resigns, has at least one year service, and who gives two weeks notice, shall receive vacation credit earned in the previous year and not yet taken, at the rate of 5/6 of a day for each month served. He may receive vacation credit earned in the present year as determined by the Chief of Police. Total vacation credit must be calculated to the nearest full day.

2. **Retirement.** A member who retires, and who gives two (2) weeks notice, shall receive vacation credit earned in the previous year and in the present year and not yet taken at the appropriate rate for each month served. Total vacation credit must be calculated to the nearest full day.

3. **Dismissal.** In the event a member who has been employed more than one year, is dismissed, he shall receive payment for his vacation which he has earned in the previous year and not yet taken. He may receive vacation credit earned in the present year as determined by the Chief of Police. The Chief of Police's decision should be in writing to the Personnel Human Resources Division. Total vacation credit must be calculated to the nearest full day.

4. **Death.** A member who dies shall receive vacation credit earned in the previous year and in the present year and not yet taken at the appropriate rate for each month served. Total vacation credit must be calculated to the nearest full day.

**ARTICLE X – SICK LEAVE**

A. **Eligibility.** Each member is credited with 10 hours of sick leave for each full calendar month of service. No credit is earned for any month in which a member is without pay for the entire month.

B. **Accumulation.** Sick leave credits may be accumulated to a maximum of 2000 hours.

C. **Approval of Usage.** Members may use sick leave, upon approval of the Chief of Police, for absence due to illness, injury, exposure to contagious disease which could be communicated to other members, and for illness in the member's immediate family. Discretion should be used in approving sick leave usage. Absence for trivial reasons will not be approved, even though there is sick leave balance to the member's credit. In no event will a member on sick leave be paid for more than eight (8) hours in a 24-hour period with the exception of being called out. If a member is scheduled to work on a holiday, and
reports sick, the member shall receive regular holiday pay, and it will not be charged against his sick leave.

D. Sickness or disability in the immediate family (limited to father, mother, sister, brother, husband, wife, or child of the member). The Chief of Police may require a certificate of the attending physician before certifying approval of payment under this provision. Time off under this provision must be limited to that which is absolutely necessary and shall not exceed three days for any one illness without the written approval of the Chief of Police.

E. Quarantine because of contagious disease. A certificate of quarantine from the attending physician must be presented to qualify for sick leave under this provision.

F. Funeral Leave. Bereavement Leave.

1. (a) In the event of death in the immediate family, a member shall qualify for funeral bereavement leave with pay for up to three (3) consecutive work days (24 hours) for participation in funeral services, arrangements or memorial services or arrangements.

   (b) For the purpose of this section, "immediate family" is defined as "spouse, child or stepchild, grandchild, parent, step parent, grandparent, brother, sister, parents or step parents of spouse, and grandparents of spouse."

2. (a) Funeral Bereavement pay will be provided to accommodate absences occurring only on regularly scheduled work days at the member's base rate of pay. Funeral Bereavement leave will not be granted for any period during which the member is already in a paid or unpaid leave status (unpaid leave status is interpreted as being military leave, disciplinary suspension, voluntary unpaid leave, absence without leave).

   (b) Eligibility is further conditioned upon submission by the member of a certificate as to the purpose and validity of leave usage.

   (c) Leave requests meeting the conditions of these sections will be approved by the member's immediate supervisor, and if requested, the member shall further submit proof of death and relationship.

   (d) Requests for funeral bereavement leave with pay will not be approved for absences not taken within a seven (7) calendar day period of the date of the funeral or any memorial services for the decedent.

3. (a) In the event of the death of a relative in other than the immediate family, as defined above, leave time with pay of up to one (1) eight (8) hour work day may be taken for funeral bereavement purposes.
(b) In the event a member should require additional time in excess of the allowances established in the above provisions, such additional time may be charged against vacation credits, with the approval of the supervisor.

4. Use of funeral bereavement leave will not be charged against accumulated sick leave balances.

G. Reporting Off Sick. Sick leave will be paid only when the member or a member of his immediate family notifies his deputy chief or other designated person of his absence one (1) hour prior to start of member's shift.

H. Conversion to Vacation Credit. Sick leave may be converted to vacation in accordance with the provisions of Article IX(D). No member is required to convert sick leave credit to vacation days. However, each member entitled to convert sick leave to vacation may be required to state his intentions whether or not to use it within a time limit set by the Chief of Police. This provision may be waived.

I. Conversion to Terminal Leave. Upon the death, retirement, resignation or dismissal of a member all unused sick leave credit will be converted to terminal leave pay in the following manner:

1. If the member has accumulated 300 hours or less of unused sick leave, no terminal shall be paid;

2. If the member has accumulated between 301 hours and 1000 hours of unused sick leave, all unused sick leave credit will be converted on the basis of twenty-four (24) sick leave hours for eight (8) hours of terminal pay to a maximum of three hundred and thirty-three (333) hours;

3. In addition to the terminal pay set forth in paragraph two above, if the member has accumulated 1001 hours or more of unused sick leave, all unused sick leave in excess of one thousand (1000) hours will be converted on the basis of sixteen (16) sick leave hours for eight (8) hours of terminal pay to a maximum of five hundred (500) hours;

4. Notwithstanding paragraph two and three above, if a member is terminated or dismissed from employment, the member shall not receive in excess of two hundred (200) hours of terminal pay.

J. Supplemental Sick Leave Regulation. The Chief of Police shall establish regulations to supplement those set forth above. Such regulations should include the following points:

1. Certificate. In cases of illness in the member's family requiring him to be at home, the member may be required to submit a certificate from the attending physician attesting to the fact, before sick leave will be allowed.
2. Transfer of sick leave days from one member to another will be allowed under rules established by the Chief of Police.

K. Maternity Leave.

1. **Notification of Pregnancy.** It is the duty of the member to notify her supervisor as soon as pregnancy has been confirmed.

2. **Leave of Absence.** Maternity leave will be granted to members upon the certification of the attending physician they are no longer capable of adequately performing their job-related duties due to pregnancy.

Sick leave may be utilized for maternity leave, in accordance with Administrative Regulation 11-27.

The member will be required to return to work as soon as her physician determines she is capable of performing job-related duties.

3. **During pregnancy and until such time as the member is released by her physician with respect to the pregnancy,** a member who is unable to perform her regularly assigned duties may be assigned by the Chief of the Division to perform duties not requiring great physical exertion, with the approval of the member’s physician or a physician of the employer's choice.

ARTICLE XI – HOLIDAYS

A. This is an earned benefit. The following days shall be celebrated as paid holidays by all members:

- New Year’s Day
- Martin Luther King Day
- President’s Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving Day
- Christmas Eve
- Christmas Day
- Member’s Birthday

B. Each member shall be able to accumulate seventy-five (75) holidays (600 hours). Members who have accumulated more than six hundred (600) hours prior to November 1, 2015 may accumulate unlimited holidays. If an employee is scheduled to work a holiday, works the holiday and is unable to bank the holiday because of the limit on the accumulation of holidays in this section, the employee shall be paid for the holiday.

C. All holiday leave shall be subject to the following terms:
1. A member working on a regular schedule shall not be excused from work on the above days unless otherwise scheduled by the Chief of Police.

2. **Loss of Holiday.** If a member is off without pay because of an unexcused absence either the work day before or the work day after a holiday, he forfeits that holiday pay. An unexcused absence is an absence not covered by approved vacation, accumulated sick leave, and military leave, approved leaves with pay or approved leaves without pay. In addition, holiday pay ceases during any period a member is not being paid his regular salary or wage.

3. **During Vacation.** If a holiday falls during a member's vacation period, it shall not be charged to vacation time, except where division policy is to grant additional vacation time in lieu of granting regular holidays off.

4. **Holiday Pay.** Members working on New Year's Day, Thanksgiving Day, or Christmas Day, shall be entitled to the following compensations:

   One-half hour's pay for each hour worked between the hours of 7:00 a.m. the morning of the holiday and 7:00 a.m. the following day, in addition to the regular work pay.

5. **Additional Holiday Provision.** A member who resigns or retires with two (2) weeks notice, or dies, will be paid for holidays which have been accumulated but not taken.

**ARTICLE XII – AUTHORIZED LEAVE**

**A. Military Leave.**

1. Sergeants and Lieutenants who are members of any military reserve component are entitled to leave of absence for such time as they are in the military service on field training or active duty. Such leave will be granted by the Chief of Police only after seeing orders from proper military authorities, which shall be presented not less than 30 days prior to the beginning of such training or active duty period, except in the case of emergency.

2. Military training leaves shall be without pay; provided, however, if the member's military pay is less than his regular City pay, he may file a certificate to that effect upon his return and forward it to the Director of Finance, via the Personnel Human Resources Division, whereupon he will be entitled to the difference, up to a maximum of 35 days per calendar year.

3. Military training leaves do not affect the member's sick leave or vacation balances, or accumulation, and shall not be considered to be a break in his continuous employment by the City.
B. **Leave of Absence with Pay.**

1. **Purpose.** Leaves of absence with pay may be granted for any legitimate reason including, but not limited to the following, provided such absence has been approved in advance by the proper authority, as outlined below:

   (a) For military pre-induction examinations;

   (b) When called to serve on a jury (payment on a no loss basis to member);

   (c) When subpoenaed as a witness in a work related court case;

   (d) To attend meetings, conventions, conferences, or a short course of instruction which benefit the City as approved by the Chief of Police.

2. **Procedure.** A member desiring to apply for a leave of absence should submit his application to his immediate supervisor, outlining briefly the necessity for such a leave. The supervisor will transmit the request to the Chief of Police along with his comments. Further disposition will be made as follows:

   (a) A request for leave of five days or less will be granted at the sole discretion of the Chief of Police.

   (b) A request for leave of more than five days duration will be forwarded to the City Manager by the Chief of Police along with his recommendations.

3. **Conditions.** All such leaves will be given in writing with a copy directed to the Personnel Human Resources Division. When pay is granted by another agency, such as in a court proceeding, the statement from the agency must be submitted with the next payroll following return to work.

   The City will compensate the member for the difference between that agency payment and the member’s regular salary. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case.

C. **Leave of Absence Without Pay.**

1. **Purpose.** Leave of absence without pay may be granted for any legitimate purpose subject to approval, including but not limited to the following:

   (a) To further a member's education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the member agrees to return to City employment for a specified period of time after such leave).
(b) To attend funerals not covered by paid leave.

(c) To care for a member of the immediate family in case of extended illness or injury in circumstances not covered by sick leave.

(d) Illness not covered by sick leave.

2. Procedure. A member desiring to apply for a leave of absence without pay should submit an application to his immediate supervisor, outlining the reason for the request. The supervisor will transmit the request to the Chief of Police along with his comments. Further disposition will be made as follows:

(a) A request for leave of five days or less shall be granted at the sole discretion of the Chief of Police.

(b) A request for leave of more than five days duration will be forwarded to the City Manager by the Chief of Police along with his recommendations.

3. Conditions. All such leaves will be given in writing with a copy directed to the Personnel Human Resources Division. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while a member is on a leave without pay after such leave exceeds two weeks. Fringe benefits include sick leave, vacation, annual pay increases, insurance, holidays, longevity pay and uniform allowance. The member may continue his health insurance coverage at his sole expense. Longevity pay shall be paid to a member on a leave of absence without pay, or who has used a leave of absence without pay during the year, on a prorated basis with no longevity pay for the period of leave of absence without pay.

D. Disability Leave of Absence.

1. A member incurring any disability not duty connected, after he has exhausted all of his paid leave to which he is entitled, will be entitled to a leave without pay for a period not to exceed six (6) months, subject to the following provisions:

(a) The member shall apply for such leave, in writing, to the Chief of Police, for his approval.

(b) The member shall submit a physician's report, including a statement regarding the nature of the disability and whether or not the member is able to work.

(c) The member shall submit to the Chief of Police, a physician's statement of release for work before returning to work.
2. All fringe benefits cease while a member is on a disability leave of absence. Fringe benefits include sick leave, vacation, annual pay increases, holidays, longevity pay, and uniform allowance. Health insurance shall be continued with the member paying only his contribution under Appendix A of this agreement for a period of ninety (90) days. At the end of that period, the member may continue his health insurance coverage at his sole expense. Longevity pay shall be paid to a member on a disability leave of absence, or who has used a disability leave of absence during the year, on a prorated basis with no longevity pay for the period of the disability leave of absence.

E. Family and Medical Leave. Family and medical leave shall be granted in accordance with the Family and Medical Leave Act of 1993, as amended, in accordance with the Policy and Procedure Manual of the City of Middletown.

ARTICLE XIII – MISCELLANEOUS BENEFITS

A. Influenza Shots. Each member may receive free annual immunization against influenza, at such times as may be scheduled by the Health Department.

B. Skin Tests for Tuberculosis. Each member and his family, who lives in Butler County, is eligible for free skin tests. They may be obtained at the Butler County Clinic located at 701 North University Boulevard.

C. The City will provide, upon request by any member of the Division of Police, an inoculation for prevention of Hepatitis, Type B.

D. The City will provide, upon request, within a reasonable time, an AIDS test for any member that the City determines has been exposed to the AIDS virus while performing his duties. The City will pay any legitimate cost for the test not covered by medical insurance or workers' compensation, as well as reasonable travel expense.

E. Upon retirement a member may purchase his duty weapon for the sum of $1.00.

ARTICLE XIV – DRUG TESTING

A. PURPOSE OF DRUG TESTING PROGRAM

1. The Police Department has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that it's employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug dependence or illegal drug use.

2. A reasonable drug testing program must establish a balance between the rights of the employee and maintaining a police agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves with diligence to ensure that employees can perform their duties without endangering themselves or the public.
3. There is sufficient evidence to conclude that use of illegal drugs and/or drug abuse (whether illegal or prescription drugs) seriously impairs an employee’s performance and general physical and mental health. The illegal use of drugs by police employees (therefore, possession) is a crime in this jurisdiction, and clearly unacceptable. There are unique corruption hazards with drug use by the police. Therefore, the Police Department has adopted this written policy to ensure an employee’s fitness for duty as a condition of employment, and

(a) To ensure drug tests are ordered based on individualized reasonable suspicion or other lawful basis;

(b) To establish a written policy on drug testing in the department; and

(c) To inform the employee of the conditions under which drug testing is a requirement of employment.

B. DEFINITIONS

1. Drug Test – A urinalysis test administered under approved conditions and procedures to detect drugs.

2. Reasonable Suspicion – An apparent state of facts and/or circumstances found to exist upon inquiry by the supervisor, which would induce a reasonably intelligent prudent person to suspect the employee was under the influence of drugs/narcotics.

C. GENERAL RULES

1. Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisor of the medication prescribed. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited.

2. All property belonging to the Department, including the entire premises of the department, is subject to inspection at any time without notice as there is no expectation of privacy.

(a) Property includes, but is not limited to, police owned vehicles, desks, files, and storage lockers.

(b) Employees assigned lockers (including those that may be locked by the employee) are subject to inspection by the employee’s supervisor after reasonable advance notice (unless the requirement for notice is waived by the Chief of Police) and in the presence of the employee.

3. All police employees who have a reasonable basis to suspect that another employee is illegally using drugs or narcotics, shall immediately report the facts and circumstances of such use to their supervisor.

4. Failure of any police employee to comply with the intent or provisions of this general order constitutes grounds for disciplinary action, including dismissal, or other action determined appropriate by the Chief of Police. Refusal by a police
employee to take a required test, i.e., a test that is ordered based upon reasonable suspicion as defined in paragraph B(2) above, or under circumstances described in paragraphs D(1) and (2) below, or follow this general order, will result in immediate relief from police duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required test within two (2) hours of receiving the order.

D. POLICY-DRUG TESTING/URINALYSIS

1. Employees of the department shall be required to submit to a test for drug or narcotic use as outlined below:

   (a) The Chief of Police may order a drug test when he has reasonable suspicion of drug use by an employee due to one or more of the following criteria: (1) incapable to perform his/her assigned duties, (2) reduced productivity, (3) excessive vehicle accidents, (4) high absenteeism, (5) other behavior inconsistent with previous performance, or (6) where he has reasonable suspicion that an employee is using, has possession of, has sold or is under the influence of drugs (illegal or prescribed), or narcotics. The evidence shall be made available to the employee.

   (b) A police supervisor may order a drug test:

      (i) Where he or she has reasonable suspicion that an employee is using, or is under the influence of drugs or narcotics;

      (ii) Where the employee uses force which results in hospital admission, or property damage;

      (iii) Where there is on-duty injury to the employee or another person which requires hospital admission.

   (c) The employee shall be advised of circumstances surrounding the order to test under Section D(1)(b)(i)-(iii) above.

   (d) Whenever practical, prior approval should be obtained from the Chief of Police before the supervisor orders the test.

   (e) A supervisor who orders a drug test when he has reasonable suspicion of an employee’s usage or possession, or that an employee is under the influence of drugs, shall forward a report containing the facts and circumstances directly to the Chief of Police.

   (f) Test results reporting illegal drugs, narcotics, the use of controlled substances without a lawful prescription, or the abuse of prescribed drugs, will be submitted as a part of a written complaint by the supervisor ordering the test, consistent with Section D(1)(e) above requesting departmental action.

2. Sworn employees assigned to the drug/narcotic enforcement unit shall be required (in addition to those situations set forth in Section D(1) above) to submit to a periodic unannounced drug test at the direction of the Chief of Police.
(a) Prior to accepting a voluntary assignment in the drug/narcotic enforcement unit, an employee shall execute a written agreement and release stating that he/she fully consents to any medical, physical, psychiatric, psychological, or other reasonably required testing, including urine and/or blood testing for drug or narcotic substances. In addition, the agreement or release shall give the Department permission to have access to all the employee’s medical records.

(b) The Chief of Police shall select the date and time when each employee assigned to the unit will be tested. The test shall be administered a minimum of once a year.

3. In the event that an employee is required to submit to a drug test, the following guidelines should be observed:

(a) The employee shall be granted enough time to change from uniform to civilian clothing.

(b) The employee will be transported to the designated testing center by a supervisor.

(c) The employee may request that a police department employee of his/her choice be present for the transportation and test, provided said individual is off duty and reasonably available.

(d) A controlled test will be conducted by personnel of the testing site.

(e) Subject to the rules of the testing authority the employee may have an observer for the test.

(f) The sample will be properly labeled, sealed, and turned over to the site personnel by the employee.

(g) All parties involved will be transported back to the police department.

(h) If the employee is held over his/her assigned time, he/she will be compensated for that time.

4. A negative test result shall bar the City from further discipline, for refusing to submit to a test, and the use or abuse of drugs, in violation of this policy.

5. A positive result, after a second qualifying test, may result in discipline.

6. Employees who have been found to be using illegal drugs or narcotics, or abusing prescription drugs, shall be provided a hearing before the City Manager or his designee where evidence is presented and preserved, before final action is taken against the employee.

7. The City will indemnify and save the Union harmless from any action alleging the constitutionality of the administration of this drug testing provision.

E. RANDOM DRUG TESTING
Random drug testing will be implemented in accordance with the General Orders of the Departmental Manual, Middletown Division of Police. The General Order implementing random drug testing shall not be amended without the agreement of the parties.

ARTICLE XV – EMPLOYEE RIGHTS

A. All contacts, verbal or written, be it disciplinary or any other, between a member and a superior officer, shall be conducted in a calm, professional manner.

B. During the course of an investigation of member misconduct where discipline is likely to result to the affected member, the member may request the presence of a union representative during the investigating interview, provided the representative is reasonably available.

C. The member being interviewed shall be informed verbally of the nature of the investigation before the interview commences. The member shall be permitted to take notes of the interview.

D. When a member is being interviewed, where discipline may result, the member shall answer truthfully and completely all questions concerning the investigation posed to him by the interviewing officer. A member who refuses to answer such questions shall be informed that his refusal to answer constitutes insubordination and can be a basis for disciplinary action.

E. The City agrees not to suspend without pay, demote or discharge a member without first offering the member the opportunity to provide an explanation of the circumstances surrounding the charge brought against him, to the Chief of the Division of Police. The member may have an FOP representative, and his attorney, present during the meeting provided the individuals selected are reasonably available. Meetings, where practical, shall be conducted at hours reasonably related to the member's shift, preferably during the member's working hours.

F. Written notice of the charge(s) against a member, and a description of the nature of the evidence upon which the charge(s) is based shall be given the member in advance of the meeting described above.

G. All entries in personnel files relating to disciplinary action or performance shall be provided to the member by copy and such member is entitled to place a letter of explanation or rebuttal to be attached to any such entry so long as said explanation or rebuttal does not exceed 300 words in length and is submitted within 7 working days of the date the member is provided with the entry.

H. A member shall be provided a copy of his/her personnel file, upon request, if such member has been disciplined or is eligible for retirement. A copy of a member's file shall be provided to them at no cost, no more than one time in any three year period.

I. A committee of no more than three (3) members of the bargaining unit, will meet with representatives of management from time to time for the purpose of discussing subjects of mutual concern. Meetings may be requested not more than once every ninety (90) days, except upon agreement by both parties. There shall be no obligation upon the City or the Union to renegotiate working conditions, pay or any other policy or practice which may be the subject of such discussions. Meetings shall be limited to two hour's
duration. The party requesting the meeting shall submit a proposed agenda in writing five (5) days prior to the scheduled meeting. Those items not considered during the Labor Management Meeting may be resubmitted in writing for agendas of subsequent meetings.

ARTICLE XVI – LAYOFF/RECALL

A. Layoff/Bumping. In the event the City should lay off police personnel, such lay off shall be solely in accordance with this Article and in lieu of any provisions in Chapter 124 of the Ohio Revised Code or any conflicting provisions of the City Charter or City policy. For the purpose of this agreement, seniority shall be the total service within a sworn police position with MPD less any time, which constitutes a break in service. For layoff only, seniority shall constitute time in rank, subject to the provisions herein.

1. Patrol officers with the least seniority shall be laid off first.

2. In the event the City should reduce the number of police supervisors, the supervisors with the least time in rank shall bump to the next lower rank.

3. In the event the City should reduce the number of Deputy Chiefs, such Deputy Chief shall bump to the lower rank of Lieutenant. A Deputy Chief reduced in rank shall bump the Lieutenant with the least amount of time in grade. A Lieutenant reduced in rank shall bump the Sergeant with the least amount of time in grade and a Sergeant reduced in rank shall bump the least senior Patrol Office. A supervisor bumped into a lower supervisory rank will be placed in the lower rank based upon the employee’s total time as a supervisor for the Middletown Police Department. Once bumped into the patrol rank, the bumped member shall become the senior ranking officer in the patrol rank for the purposes of recall only. This bumping procedure shall continue until no lower rank exists.

4. An employee who is reduced in rank shall be reinstated to their previous rank in reverse order of bumping and before any competitive test is given for a supervisory opening.

5. In the event a member is laid off, he shall receive payment for earned but unused vacation and/or holiday (to include current calendar year) sick leave conversion, uniform maintenance, and clothing allowance with his termination pay.

B. Recall. Members who are on lay-off shall be placed on a recall list for a period of two years and shall be recalled in reverse order of their layoff with the last member laid off being the first to be called back, and continuing in like manner until the required number of members has been obtained.

C. Recall notification. No new member shall be hired until all members who have been laid off in the previous two years have been given the opportunity to return to work. Laid off members will be notified by registered mail at their last known address to return to work within twenty one calendar days. Failure to report within the time limit removes them from the recall list.

D. Layoff/Termination. A member who is on layoff for a period of two years is automatically terminated and loses all seniority.
ARTICLE XVII – SAVINGS CLAUSE

This Contract is meant to conform to and should be interpreted in conformance with the Constitution of the State of Ohio and United States of America and all applicable State and Federal Laws. Should any part of this Contract be held invalid by operation of law or by any tribunal of competent jurisdiction or should compliance with or enforcement of any part of this Contract be restrained by any such tribunal pending a final determination as to its validity, such invalidation or temporary restraint shall not invalidate or affect the remaining portions of this Contract or the application of such portions to persons or circumstances other than those to whom or to which the Contract has been held invalid or has been restrained. In such an event and upon written request by either party, the parties to this Contract shall meet at mutually agreeable times to attempt to agree upon a substitute provision. All other provisions of this Contract shall remain in full force and effect for the duration of this Contract.

ARTICLE XVIII – TOTAL AGREEMENT, HEADINGS AND GENDERS

A. The provisions of this Contract constitute the entire written Contract between the City and the F.O.P. Neither party shall be bound by prior written or verbal agreements.

B. It is understood and agreed that the use of headings before Articles is for convenience only and that no heading shall be used in the interpretation of any such Article nor affect any interpretation of any such Article.

C. Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular and words whether in the masculine, feminine or neuter genders shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

ARTICLE XIX – EMBODIMENT

The two parties to this Contract jointly and separately agree that this Contract embodies all applicable provisions relating to members covered.

The City and Lodge #36 each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter during the course of collective negotiations preparatory to the signing of this Contract. Arrangements, provisions and procedures previously agreed to by the parties, either formally or informally, shall henceforth be void as of July 1, 1984, unless included herein.

ARTICLE XX – INJURY LEAVE

Employees are entitled to receive injury leave for on-the-job injuries, in accordance with the conditions and limitations set forth in this article. Such leave shall be in addition to all other leaves provided in this agreement.

A. An on-the-job injury is a physical injury that an employee suffers during the course and scope of his/her employment for the City of Middletown. On-the-job injury does not
include pre-existing injuries, injuries suffered at the workplace which are not in the course and scope of the employee's work activity, psychological or psychiatric injuries or conditions. However, any member who suffers a heart attack, is over forty (40) years of age and has been employed by the City of Middletown for a period of ten (10) consecutive years as a police officer shall be presumed to have suffered an on-the-job injury.

B. An employee who suffers an on-the-job injury shall receive up to one hundred and fifty (150) working days of injury leave. Effective January 1, 2020, with approval of the Police Chief, an employee’s injury leave may be extended up to 180 additional working days.

1. Injury leave shall be used consecutively from the date of injury, except that if an employee has not exhausted the leave for an injury, he/she may take such leave for the same injury at anytime within four (4) years of the on-the-job injury. However, any such non-consecutive use of injury leave shall be available only after the employee uses three (3) consecutive days of sick leave before each such non-consecutive use of injury leave, except where such nonconsecutive use occurs within seven (7) calendar days of the date of injury. In no event shall injury leave be available more than four (4) years after the initial date of the injury.

C. In order to be eligible for injury leave, the employee must submit, within twenty-four (24) hours of the on-the-job injury, a report, in a form established by the employer, to the appropriate supervisor. In addition, the employee must submit to the employer, within five (5) days of the on-the-job injury, a physician's statement, describing the nature of the injury, limitations on the employee's ability to work, and an expected date of return to work. If an employee is hospitalized immediately following the injury, he shall submit the physician's statement within five days after his dismissal from the hospital to the employer.

1. If the employee fails to comply with the requirements of paragraph C of this article, the first ten (10) days of leave shall be charged as sick leave and subtracted from the injury leave balance, unless the employee fails to submit either the report or the physician's statement within thirty (30) days of the injury, in which case, the employee shall lose his/her entitlement to any injury leave.

D. An employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the employer from time to time to submit himself for a medical examination by a licensed physician, selected by the employer. The employer will pay any legitimate cost for examination that the employee's medical insurance or workers' compensation does not cover, including travel expenses.

If an employee refuses to submit to a medical examination, or if the report from the physician conducting the medical examination provides that the employee is either not injured or is able to return to work, further injury leave compensation may be suspended or denied.

If the report from the physician selected by the city is in conflict with the report submitted by the member's physician regarding the nature of the injury, limitations on the member's ability to work or the expected date of return to work, the member shall be examined by a third physician selected by the employer from a list of physicians to be mutually agreed to by the parties. The opinion of said third physician shall be determinative.

E. An aggravation or re-injury of an existing injury or condition shall be treated as part of the original injury, and shall be subject to the limitations in paragraph B of this Article.
The employer retains the right to require written evidence of the aggravation or re-injury from the employee's physician. This provision is subject to paragraph D of this Article. An employee who suffers an on-the-job incident or accident resulting in a new injury to a previously injured area of the body will be eligible for the full benefit described in paragraph B of this Article.

F. A member who is injured and unable to perform his regularly assigned duties, may be assigned at the sole discretion of the Chief of the Division to perform duties not requiring great physical exertion in lieu of receiving injury leave compensation, with the approval of the member's physician or the employer's physician as set forth in paragraph D above.

G. 1. A member who has exhausted all 150 days of injury leave and is still unable to return to his/her regular duties shall be permitted to use up to 40 days of sick leave. If, after this 40 day period, the employee is still unable to return to his/her regular duties, the member shall use any accrued but unused banked time off (i.e., holidays, vacation days, personal days or compensatory time) before using any sick time. If the employee returns to his/her regular duties, all the banked time used at the end of injury leave (except time that was required to be used in a previous year) will be immediately credited back to the employee's leave bank. Any time so credited shall then be deducted from the member's sick leave bank.

2. If the employee resigns or terminates employment for any reason (except as a result of a new injury as defined in paragraph A of this Article) within six (6) months of returning to regular duties, banked leave time that had been credited will then be deducted from the member's bank and such time credited back to the employee's leave account.

H. Extensions of paid injury leave beyond 150 working days under subsection B are not subject to the grievance and arbitration provisions under Article VI.

III. Employees who are injured while at work who are under the influence of alcohol or drugs, as prohibited in Article XIV of this Agreement, are not eligible for injury leave under this Article.
In an effort to expedite the processing of medical claims for employees who have suffered a job related injury (as defined in Article XX(A)), the City agrees to waive the 14-day "protest period" provided by the State Bureau of Worker's Compensation (BWC) in connection with BWC's approval or denial of an MRI test.

ARTICLE XXI – TERMINATION

This Contract shall become effective November 1, 2015 November 1, 2019 and shall terminate on October 31, 2018 2021.

SIGNATURES

FOP LODGE #36

Dennis Jordan
President, FOP Lodge #36
Bargaining Committee Member

Jason Wargo, Vice President
Bargaining Committee Member

Ryan Rogers
Bargaining Committee Member

Conner Kirby
Bargaining Committee Member

Holly Owens
Bargaining Committee Member

Cristopher Kelly
Bargaining Committee Member

Malcolm Tipton
Bargaining Committee Member

CITY OF MIDDLETOWN

Susan Cohen
Acting City Manager

David Birk
Police Chief

Alexander Ewing
Attorney, Chief Negotiator and on behalf of the Law Director
Wage Scale 1

SERGEANTS AND LIEUTENANTS HIRED BEFORE NOVEMBER 1, 2019

### SERGEANTS

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### Wage Scale 2

**SERGEANTS AND LIEUTENANTS HIRED NOVEMBER 1, 2019 OR LATER**

**SERGEANTS**

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Effective July 1, 2020 (3%)

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### LIEUTENANTS

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</table>
TO: Cris Kelly, FOP President
FROM: Rodney Muterspaw, Chief of Police
SUBJECT: Letter of Understanding: Union Business Leave
DATE: November 30th, 2015

Article III, Section B, of the Contract Between the City of Middletown and FOP Lodge 36, titled “Union Activity” states, in part, “No compensation shall be paid for any Union business conducted on their own time or days off.” The Union raised the issue of a member working Midnights who is scheduled to meet with the Ohio Police and Fire Pension board for purposes of arranging their retirement. In the past, Union members working the Midnight shift have been forbidden to take Union Business Leave in these circumstances, as the meeting took place outside of their working hours.

Management and the Union agree that a member is entitled to 8 hours of Union Business Leave for the purpose of attending a pre-retirement meeting with OP&F regardless of what shift they are working, provided the member is scheduled to work on that day, or, in the case of members scheduled to work the Midnight shift, the day prior to the meeting.

Cris Kelly, President, FOP 36

Rodney Muterspaw, Chief of Police
September 3, 2020

TO: Jim Palenick, City Manager

FROM: Susan Cohen, Administrative Services Director

PURPOSE

The objective of this staff report is to present to City Council two collective bargaining agreements between the City of Middletown and the Fraternal Order of Police, Lodge #36 (Patrol Officers and Sergeants and Lieutenants).

BACKGROUND AND FINDINGS

The two collective bargaining agreements between the City and FOP, Lodge #36 expired on October 31, 2018. The FOP and the City have been negotiating the terms of the new contracts for both the Patrol Officer unit and the Sergeants and Lieutenants unit. The parties went through the fact-finding and conciliation processes. The conciliator issued an award on December 5, 2019. While getting the final contracts ready for signature, the parties agreed to modify the contract language for the compensatory time provisions necessitating City Council to approve the new CBA’s. The terms of the conciliation award have already been implemented for these units. The notable changes from the prior contracts include:

1. The term of the contract is for two years (November 1, 2019 through October 31, 2021).

2. Wages: increase of 3% on January 1, 2020, July 1, 2020 and January 1, 2021; a new 12-step wage scale for employees hired November 1, 2019 or later.

3. Compensatory time: Maximum accrual is changing from 480 hours to 300 hours. Employees who have over 300 hours will still be allowed to accrue up to 480 hours until such time as they drop below 300 hours. Once below 300 hours, they will be subject to the new limit of 300 hours.

4. Vacation. Vacation credit was modified match the accrual amounts of current non-union employees that receive vacation. We have recently been implementing these accrual amounts into other CBA’s as well.
(5) Bereavement Leave. Updated from Funeral Leave to Bereavement Leave to reflect changes to other union and non-union use of this type of leave.

(6) Injury Leave. With the Chief’s approval, injury leave can be extended up to an additional 180 working days.

**RECOMMENDATION**

City Staff recommends that City Council approve the collective bargaining agreements and authorize the City Manager to enter into these agreements.

**ALTERNATIVES**

If City Council chooses not to approve the agreements, the parties would move forward under the previously issued award of the conciliator. The parties would most likely enter into a Memorandum of Understanding to resolve any remaining concerns, such as the language for use of compensatory time.

**FINANCIAL IMPACT**

The costs associated with the wage increases were included in the 2020 budget.

**EMERGENCY/NON-EMERGENCY LEGISLATION**

Emergency legislation is requested so that the new contracts can be signed and distributed as quickly as possible.
LEGISLATION
ITEM 6
RESOLUTION NO. R2020-27

A RESOLUTION IMPOSING A MORATORIUM OF SIX MONTHS ON THE ISSUANCE AND PROCESSING OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ALLOWING STANDALONE BUSINESSES PROVIDING MASSAGE THERAPY, RELAXATION MASSAGE SERVICES OR THE LIKE WITHIN THE CITY OF MIDDLETOWN AND DECLARING AN EMERGENCY.

WHEREAS, the Middletown Division of Police has had multiple calls for service involving illegal activity being conducted at businesses promoting massage services; and

WHEREAS, for the purposes of this resolution, the definitions of “massage therapy,” are the same definitions as those found in Chapter 4731 of the Ohio Revised Code; and

WHEREAS, for the purposes of this resolution, the definitions of “massage services” and “relaxation massage” are defined as any touching procedures upon the external parts of the body by the hand or by any electrical, mechanical, or vibratory apparatus – including stroking, friction, kneading, rolling, vibrating, cupping, petrissage, rubbing, effleurage, and tapotement; and

WHEREAS, pursuant to the City Ordinances and Charter of the City of Middletown, as well as the Ohio Constitution, this Council has the inherent power to enact planning, zoning and business regulation laws that further the health, safety, welfare, comfort and peace of its citizens, including restricting or prohibiting certain business uses; and

WHEREAS, City Council seeks time to study whether to limit or prohibit the these services; or alternatively, to develop and implement regulations regarding the possible location and operation of these businesses within the City of Middletown; and

WHEREAS, City Staff will require additional time to review and make recommendations on zoning, prohibition and/or limitations of massage therapy and relaxation massage services so that any necessary regulations conform to goals of the City of Middletown and help ensure public peace, health, safety, and welfare of its citizens; and

WHEREAS, a moratorium of six months on the granting of permits for massage businesses in the City of Middletown will allow time to accomplish the City’s goals and help ensure the public peace, health, safety and welfare of its citizens;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:
Section 1

City Council hereby imposes a moratorium of six months on the issuance and processing of building permits and certificates of occupancy to standalone providers of massage therapy, relaxation massage, or any other massage services. The purpose of this moratorium is so that City Staff may prepare any necessary statutes and/or regulations.

Section 2

City Council hereby directs and orders that no building permits or certificates of occupancies for massage therapy, relaxation massage, or any other massage services shall be issued or processed by the City of Middletown during the six month moratorium.

Section 3

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: so that the moratorium is put in place to prevent any further illegal activity and give the City sufficient time to determine the appropriate legislation and/or regulations, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ____________

Attest: _______________________

Clerk of the City Council

H:/Law/leg/2020 Leg/yr Moratorium Massage Parlors
DATE: September 2, 2020

TO: James Palenick, City Manager

FROM: Susan Cohen, Administrative Services Director
Written by Ashley M. Bretland, General Counsel

PURPOSE

The purpose of this resolution is to place a six month moratorium on the issuance and processing of any building permits or certificates of occupancy allowing any businesses providing massage therapy or relaxation massage services with the City of Middletown.

BACKGROUND AND FINDINGS

Recently, the City has dealt with illegal activity being conducted at a business promoting massage services. Further, this is not the first such occurrence. City staff will be reviewing our city ordinances and those of other jurisdictions in regards to these types of businesses. New legislation is anticipated in order to properly address the illegal activity that has occurred at these types of businesses. In the meantime, businesses that apply for a building permit prior to the enactment of new legislation would not be subject to any new regulation. A moratorium will protect the City’s interest in enacting appropriate legislation to protect citizens.

This issue relates to many city departments. The six month moratorium would allow city staff to address concerns and be able to recommend next steps for council in a reasonable manner.

ALTERNATIVES

The alternative is to take no action. City staff would accept and evaluate individual requests to open businesses providing massage therapy or relaxation massage services as they are received.

FINANCIAL IMPACTS

There is no immediate financial impact for the City.

EMERGENCY/NON EMERGENCY

Emergency to allow the moratorium to go into effect immediately.
LEGISLATION
ITEM 7
Ordinance No. O2020-47

An ordinance amending various sections the Middletown Development Code of the Middletown Codified Ordinances.

Whereas, the Development Code went into effect on March 1, 2018; and

Whereas, staff has drafted updates to several statutes and the text amendments were submitted to Planning Commission for consideration; and

Whereas, after holding a public hearing on July 10, 2020, Planning Commission recommended that the text amendments be approved as requested, and certified that recommendation to City Council; and

Whereas, upon receiving such recommendation, City Council held a public hearing on September 15, 2020, notice of such public hearing having been given in the Journal News at least 30 days prior to such hearing, and City Council hereby concurs in the recommendation of the Planning Commission;

Now, therefore, be it ordained, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

The following sections of the Middletown Development Code, as included in the Middletown Codified Ordinances, are hereby amended as set forth in full in the exhibits attached hereto:

- Exhibit A Section 1204.01 – Table 1204-1: Zoning Districts
- Exhibit B Section 1204.05 – Historic Districts and Historic Landmarks
- Exhibit C Section 1204.07(b)(17) – HD & CD Overlays: Historic District & Conservation District
- Exhibit D Section 1204.08 – Permitted Principal Uses – Table 1204-3
- Exhibit E Section 1204.09(d) – Commercial Uses
- Exhibit F Section 1206.01(b) – General Provisions
- Exhibit G Section 1208.06(a) – Permit Required
- Exhibit H Section 1210.04(b)(3) – Building Materials
- Exhibit I Sections 1212.01, 1212.02 and 1212.03
Unless otherwise noted, the remainder of the Development Code shall remain unchanged.

Section 2

This ordinance shall take effect and be in force at the earliest date permitted by law.

Nicole Condrey, Mayor

1st reading: _____________
2nd reading: _____________
Adopted: _____________
Effective: _____________

Attest: 
Clerk of City Council
## 1204.01 ESTABLISHMENT OF ZONING DISTRICTS

The City hereby establishes the following zoning districts to carry out the purpose of this code.

### TABLE 1204-1: ZONING DISTRICTS

<table>
<thead>
<tr>
<th>DISTRICT ABBREVIATION</th>
<th>DISTRICT NAME</th>
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<tbody>
<tr>
<td><strong>RESIDENTIAL DISTRICTS</strong></td>
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<tr>
<td>R-1</td>
<td>Suburban Residential District</td>
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<td>R-2</td>
<td>Low-Density Residential District</td>
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<td>R-3</td>
<td>Medium-Density Residential District</td>
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<td>R-4</td>
<td>Attached Residential District</td>
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<td>O-1</td>
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<td>O-2</td>
<td>Office Park District</td>
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<td>Neighborhood Business District</td>
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<td>Community Business District</td>
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<td>General Business District</td>
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<td>Business Center District</td>
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<td>Business Center Interchange Subdistrict</td>
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<td>Business Center Hub Subdistrict</td>
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<td>BC-O</td>
<td>Business Center Office Subdistrict</td>
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<td>BC-R</td>
<td>Business Center Residential Subdistrict</td>
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<td>Business Center Flex Subdistrict</td>
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<td>Urban Core District</td>
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<td>UC-C</td>
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<td>UC-S</td>
<td>Urban Core Support Subdistrict</td>
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<td>Public and Institutional District</td>
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<td><strong>OVERLAY DISTRICTS</strong></td>
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<td>Hillside Overlay District</td>
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<tr>
<td>HD</td>
<td>Historic District</td>
</tr>
<tr>
<td>CD</td>
<td>Conservation District</td>
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1204.05  **HISTORIC DISTRICTS AND HISTORIC LANDMARKS**

Some lots within the City may be designated as historic landmarks or located in historic districts. Such lots and/or districts are not identified on the zoning map as a zoning district but the lots, and any changes to the buildings, structures, or site, may be subject to a certificate of appropriateness review as identified in Section 1226.08.

There are properties within the City designated as historic landmarks or located in historic overall districts. Historic Districts in the City are identified on the City Zoning Map as an Overlay District. Any alterations to the buildings, structures, or site for properties designated as a Historic Landmark or located in one of the City’s Historic Districts or Historic Conservation District Overlays may be subject to a certificate of appropriateness review as identified in Section 1226.08. For additional information, see Chapter 1212: Historic Preservation.
1204.07 ZONING DISTRICT REGULATIONS

(b) District Purpose Statements

(17) HD & CD Overlays: Historic District & Conservation District

A. Purpose
The purpose of the Historic District and Conservation District Overlay is to provide protection and awareness of the City’s preservation efforts to:

i. To maintain the historic fabric of the city;

ii. To stabilize and increase property values;

iii. To preserve and protect the character or valued features of established districts;

iv. To maintain and enhance the distinctive character of historic buildings and areas;

v. To safeguard the heritage of the city by preserving districts and landmarks which reflect elements of its history, architecture, archaeology, engineering or culture;

vi. To protect and enhance the city's attractions to current and prospective residents, businesses and tourists;

vii. To facilitate reinvestment in and revitalization of certain districts and neighborhoods;

viii. To facilitate and encourage economic development, public and private investment, and tourism in the city;

ix. To reduce conflicts between new construction and existing development in established districts; and

x. To allow districts to work together with the City to formulate a plan that defines their neighborhood that is consistent with City zoning and the Master Plan.
## EXHIBIT “D”

1204.08 Permitted Principal Uses

### TABLE 1204-3: PRINCIPALLY PERMITTED USES

<table>
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<th>O-2</th>
<th>B-1</th>
<th>B-2</th>
<th>B-3</th>
<th>I-1</th>
<th>I-2</th>
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<th>BC</th>
<th>UC</th>
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EXHIBIT “E”

Chapter 1204: Zoning Districts and Use Regulations

1204.09 USE-SPECIFIC STANDARDS

(d) Commercial Uses

(1) Kennels and Animal Boarding
   A. Care and boarding of animals shall be limited to small animals and may not include cattle, horses, swine, or other similarly sized animals.
   B. All activities other than off-street parking and loading/unloading shall be conducted within a fully enclosed structure.
   C. Outdoor runs shall be set back a minimum of 250 feet from any residential or office zoning district and shall only be permitted in the side or rear yard.
   D. Structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions that could result in unpleasant odor or vermin nuisance.
   E. Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so that animal noises will not be audible at any point on the perimeter of the property.
   F. A solid wood fence or masonry wall with a minimum height of six feet shall be constructed where a kennel or animal board facility is located adjacent to a residential zoning district.

(2) Veterinarian Offices or Animal Grooming (No Boarding)
   A. Care and grooming of animals shall be limited to small animals and may not include cattle, horses, swine, or other similarly sized animals.
   B. All activities other than off-street parking and loading/unloading shall be conducted within a fully enclosed structure.
   C. Outdoor runs shall be prohibited.
   D. Boarding of animals shall be prohibited with the exception that a veterinarian office may have provisions for limited overnight stays necessary for the care of sick or injured animals.
   E. Rooms intended for the care or grooming of animals shall be insulated, or otherwise soundproofed and vented so that animal noises will not be audible at any point on the perimeter of the property.

(3) Bars, Taverns, and Night Clubs
   A. The principal building shall be set back a minimum of 35 feet from any adjacent residential lot.
   B. New uses shall be set back a minimum of 100 feet from any public or institutional use. Such setback requirement shall not apply to restaurants that have a bar or tavern that comprises less than 50 percent of the floor area.
C. The maximum building footprint shall be 15,000 square feet in the BC-H Subdistrict.

(4) **Restaurants**

A. Restaurants may be conditionally permitted in the PI District if they are associated with an approved public and institutional use.


(5) **Restaurants, Drive-Through**

A. The drive through windows and aisles shall be located to the rear of the building, to the maximum extent feasible.

B. Such uses shall be subject to the drive-through facility standards in Section 1206.01.

(6) **Microbrewery, Microdistillery, or Microwinery**

A. A microbrewery, microdistillery, and microwinery shall be allowed in the B-1, B-2, B-3, BC, and UC Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on site so that the use fits into the retail character of the districts.

B. A microbrewery, microdistillery, and microwinery in the I Districts may include a taproom area to serve customers drinks made on site provided the floor area of the taproom does not exceed 25 percent of the total footprint of the structure.

(6)(7) **Live/Work Units**

A. The majority of the floor area of the unit shall be designated for the nonresidential use.

B. Any nonresidential use permitted in the applicable zoning district is permitted in the live/work unit.

C. A minimum of 50 percent of a structure's street front façade, at street level, shall be occupied by nonresidential uses.

D. The unit must be constructed with a complete dwelling unit but residential occupancy of the unit is not required (i.e., the living space could be used as an extension of the nonresidential use area) but where there will be occupancy, the occupant shall be the owner or employee of the nonresidential use.

E. Parking shall be prohibited in front of the building unless located on an approved driveway.

(7)(8) **Mixed-Use Buildings (With Residential Uses)**

A. All dwelling units shall be located above the ground floor.

B. The gross floor area of dwellings shall not exceed the gross floor area of the entire mixed use building in the B-1, B-2, and B-3 Districts.

C. The design shall provide for internal compatibility between the residential and nonresidential uses on the site.
D. The design shall ensure that the residential units have privacy from other uses on the same or adjacent site.

E. Areas for the collection and storage of refuse and recyclable materials shall be located on the site in a location that is convenient for both the residential and nonresidential uses.

F. A mixed-use building shall be designed to provide the residential uses with public or private outdoor space, which may be in the form of open yard areas, roof gardens, individual balconies, or other means acceptable to the Development Code Administrator. The minimum required open space shall be equal to 25 percent of the gross floor area of all dwelling units.

(8)(9) Business and Professional Offices
Business and professional offices may be permitted in the PI District if they are associated with an approved public and institutional use.

(9)(10) Medical or Dental Clinics/Offices and 24-Hour Urgent Care
Medical or dental clinics/offices may be permitted in the PI District if they are associated with an approved public and institutional use.
Such uses may include accessory services such as laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic.

(10)(11) Recreation Facilities (Indoors)
All activities related to the principal use, except parking, shall be located within an enclosed building. All structures, except fences, shall be set back a minimum of 50 feet from all lot lines and street rights-of-way.

A. Access shall not be provided from a street that primarily serves a residential neighborhood.

B. The maximum building footprint shall be 15,000 square feet in the BC-H Subdistrict.

(11)(12) Recreation Facilities (Outdoors)
A. All structures, except fences, shall be set back a minimum of 100 feet from all lot lines and street rights-of-way. The Planning Commission shall have the authority to require up to a 1,000 foot setback based on the intensity of the use, the potential noise and traffic, and the overall impact on the surrounding neighborhood.

B. The Planning Commission may require portions of the site with high activity areas to be enclosed by a fence having a minimum height of six feet.

C. New uses shall be on a lot with primary access on a major arterial, minor arterial, or Collector Street as established in the Middletown Street Master Plan.

(12)(13) Community Centers
A. One community center shall be allowed within an individual subdivision or for a multi-family dwelling development.

B. The community center shall only be for the use of residents and their guests.
Theaters
A. All buildings shall be set back a minimum of 50 feet from all lot lines except in the UC and BC Districts.
B. New uses shall be on a lot with primary access on a major arterial, minor arterial, or Collector Street as established in the Middletown Street Master Plan.
C. The maximum building footprint shall be 15,000 square feet in the BC-H Sub district.

Funeral Homes and Mortuaries
A. All hearses, limousines, and other related business vehicles shall be stored within an enclosed building when not in use.
B. The required number of off-street parking spaces shall be designed in parallel aisles so as to facilitate the structuring of funeral processions that leave from the funeral home site to travel to the cemetery.

Personal Service Establishments
A. Up to a maximum of 15 percent of an office building in the O-1 and O-2 Districts, or a public and institutional use in PI District, may be used for a combination of personal service establishments and/or retail and service commercial uses.
B. Massage therapists must carry a valid license from the State of Ohio.
C. Personal service establishments shall only be permitted in the PI District if they are associated with an approved public and institutional use.

Retail Sales
A. Up to a maximum of 15 percent of an office building in the O-1 and O-2 Districts, or a public and institutional use in PI District, may be used for a combination of personal service establishments and/or retail and service commercial uses.
B. Retail and service commercial uses shall only be permitted in the PI District if they are associated with an approved public and institutional use.
C. Up to a maximum of 15 percent of a building in the I-1 and I-2 Districts may be used for retail and service commercial uses when the goods being sold are manufactured or assembled on site.

Bed and Breakfast Establishments
A. The owner of the bed and breakfast establishment shall reside on the property.
B. The establishment shall conform to state health and building code requirements and shall show proof of inspection or proof of proper operating licenses by the State and/or county prior to the issuance of the certificate of occupancy.

C. Only overnight guests shall be served meals unless otherwise authorized as part of the conditional use approval.

D. The facility shall be limited to no more than four guestrooms with a maximum guest capacity as determined by fire and building regulations.

E. No external vending machines shall be allowed.

(19) Automotive Sales and Leasing

A. Automotive Sales and Leasing must be located on lots no smaller than four acres in size, with a minimum lot frontage of 200 feet. If the lot is smaller than these requirements, the use shall require approval of a conditional use application.

B. All outdoor display, storage, and sales facilities must be screened pursuant to Section 1216.06.

C. The use shall be located on an arterial street as designated on the Official Thoroughfare Plan.

D. No outdoor loudspeakers shall be permitted between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

E. The use shall meet all State of Ohio requirements. The dealers license must be on display.

F. Automotive Sales and Leasing must be located on a lot with a permanent principal structure.

(18) (20) Automotive Repair (Heavy) and Towing Services

A. A heavy automotive repair or towing services establishment shall be subject to the same requirements as an automotive service station as established in Section 1204.09(d)(21).

B. There shall be no wrecking or salvaging of parts from vehicles on the site.

C. The storage of non-operational and/or disassembled vehicles for longer than a 24-hour period shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet. No such vehicle shall be stored on-site for more than one month.

D. The principal building shall be set back a minimum of 100 feet from any adjacent residential lot. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent residential lot.

(19) (21) Automotive Service Stations and Parts Sales and Retail Fuel Sales

A. Gasoline pumps shall be set back a minimum of 20 feet from all lot lines and 50 feet from all adjacent residential lot lines.

B. Canopies shall be set back a minimum of 10 feet from all lot lines and 25 feet from all adjacent residential lot lines.
C. All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.

D. The minimum lot width for uses on an arterial street, as established on the Middletown Street Master Plan, shall be 120 feet. In the case of a corner lot, the minimum lot width shall be 185 feet measured along the arterial street.

E. A solid wood fence or masonry wall at least six feet high shall be provided on any side of the site adjacent to a residential lot.

F. Activities shall be limited to:
   i. The sale of fuel;
   ii. The servicing of motor vehicles with minor repair work;
   iii. Automatic or hand washing of vehicles within an enclosed building; and
   iv. The retail sale of vehicle parts and products relating to minor repair work such as, but not limited to, oil, grease, antifreeze, batteries, windshield wipers, etc.

G. Any major repair work, including automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work shall be classified as “automotive repair (heavy)” and shall be subject to Section 1204.09(d)(20).

H. Vehicles being serviced or awaiting same shall be stored for no longer than 14 days on the site if in unenclosed areas.

I. Any removal of pumps or tanks shall be undertaken in accordance with safe accepted practices as prescribed by the National Fire Protection Association and filling depressions to the grade level of the lot.

J. All areas not paved or covered by the building shall be landscaped.

K. There shall be no more than two driveway openings along any frontage and there shall be a minimum separation of 50 feet between each driveway as measured from the edge of pavement.

L. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable federal, State, and local requirements.

M. Outdoor solid waste and recyclable storage areas shall be screened in accordance with Section 1216.10.

Parking Garages

A. Parking lots and garages shall be subject to the design standards in Chapter 1218: Parking, Access, and Mobility. Parking garages shall also be subject to the standards in this subsection.

B. Below-grade parking garages are encouraged over above-grade.

C. Above grade are subject to the following architectural standards except if they are not visible from a public right-of-way:
i. Parking garages shall meet the architectural standards established for the applicable zoning district.

ii. Parking garages shall be constructed of materials of similar quality to the principal buildings on the site.

iii. The facades of parking garages that face public streets and are not occupied by commercial, office, institutional, public uses, or civic uses shall be articulated through the use of three or more of the following architectural features to make the parking garage appear similar in character to an occupied building:
   a. Windows or window-shaped openings with decorative mesh or similar features as approved by the City;
   b. Masonry columns;
   c. Decorative wall insets or projections;
   d. Awnings;
   e. Changes in color or texture of materials;
   f. Approved public art;
   g. Integrated landscape planters; or
   h. Other similar features approved by the City.

D. Vehicle entries to off-street parking garages shall be integrated into the placement and design of adjacent buildings or oriented away from the primary street frontage. At a minimum, parking garages shall have user vehicles access from locations that minimize conflicts with pedestrian circulation.

(21)(23) Vehicle Washing Establishments

A. All structures shall be set back a minimum of 50 feet from any adjacent residential lot line.

B. All washing facilities shall be included entirely within an enclosed building except that entrance and exit doors may be left open during the hours of operation.

C. Vacuuming and/or steam cleaning equipment may be located outside, but shall not be placed in the yard adjoining a residential zoning district. Such areas shall be set back a minimum of 150 feet from any adjacent residential lot line.

D. There shall be an area beyond the exit end of each washing line of at least 500 square feet to allow for the hand finishing and drying of vehicles.

E. All parking areas and access drives shall be subject to the surfacing requirements in Section 1218.03(h).

F. Water or residue from the washing process shall not be allowed to drain from the lot or property on which such establishment is located.

G. A solid wood fence or masonry wall at least six feet high shall be provided on any side of the site adjacent to a residential lot.

H. The use shall be subject to the stacking space requirements of Section 1218.05.
EXHIBIT “F”

Chapter 1206: Accessory and Temporary Use Regulations

1206.01 ACCESSORY USES AND STRUCTURES

(b) General Provisions

(1) An accessory use or structure shall be incidental to the primary use of the site, and shall not alter the character of the principal use.

(2) Accessory uses and structures shall be constructed on the same lot as the principal use that it serves.

(3) Any accessory use or structure that does not require a certificate of zoning compliance as part of this chapter shall still be subject to all standards of this chapter.

(4) No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the principal structure.

(5) Small accessory structures such as doghouses, benches, garden decorations, barbeque equipment, etc. shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 200 square feet. Such structures shall be set back a minimum of three feet from all lot lines and shall be subject to the maximum height standards of this section.

(6) Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard without a permit.

(7) An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards of the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building either by common walls or by a breezeway or roof.

(8) The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Butler County, Warren County, or the State of Ohio.

(9) Accessory buildings over 200 square feet in area must have the same exterior finish material on a minimum of 50% of all sides as the primary exterior material and approximate color as the front of the existing primary building. When the above provisions shall not be met, the materials shall be reviewed by the Architectural Review Board pursuant to section 1226.01 of the Middletown Development Code.

(9)(10) Height Limit

A. Unless otherwise stated, the maximum height of a detached accessory structure shall be one story or 15 feet.
B. The height of an accessory building may be increased to 18 feet provided that the primary exterior materials of the accessory building are similar to the primary exterior materials of the principal building.

C. In no case shall an accessory structure be taller than the principal building.

(10)(11) Size Requirements

A. For residential districts, the aggregate square footage of the following accessory buildings and structures shall not exceed more than 25 percent of the total rear yard:
   i. Detached garages and carports;
   ii. Detached storage/utility sheds, gazebos, and other similar structures;
   iii. Porches and decks;
   iv. Ground-mounted solar energy systems;
   v. Swimming pools;
   vi. Tennis and other recreational courts; and
   vii. Other accessory buildings similar in nature to the above mentioned structures, as determined by the Development Code Administrator.

B. There is no maximum square footage of accessory buildings or structures in the nonresidential zoning districts or for accessory uses utilized in the operation of a farm including, but not limited to, barns, silos, shed, etc.

C. In no case shall any accessory building or structure have a larger footprint than the principal building.

(12)(12) Setback and Location Requirements

A. Unless otherwise provided for in this section, all accessory uses and structures shall be located in the side or rear yard. See Section 1204.10 for determination of yards based on the lot type.

B. Unless otherwise required in this section, all accessory uses and structures shall be set back a minimum of six feet from all other buildings on the lot and a minimum of three feet from all lot lines.

C. Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.
EXHIBIT “G”

Chapter 1208: General Development Standards

1208.06 FENCES, WALLS, AND HEDGES

(a) Permit Required

(1) No person shall construct or erect a fence or wall without first obtaining an approved certificate of zoning compliance and/or a building permit, if applicable. Permits are not required for repairs of existing fences, for replacement of a fence for which the original permit can be produced, or for invisible fences.

(2) A certificate of zoning compliance shall not be required for vegetative hedges or invisible fences but they shall be subject to any applicable requirements of this section.

(3) No person shall construct or erect a fence or wall on a vacant lot unless established as a temporary construction fence.
EXHIBIT “H”

Chapter 1210: Architectural Standards

1210.04 Design Standards for Nonresidential Development

(b) Requirements for New Construction

(3) Building Materials

A. All building façades that face a public street, except those in the UC District, shall be constructed of the following materials:

i. Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).

ii. Architectural metal is permitted, provided that it occupies no more than 10 percent of the façade area and that all fasteners are concealed.

iii. This subsection shall not be construed to prohibit metal roofs, flashing, or high-quality metal siding such as copper, bronze, or other decorative metal as determined by the Development Code Administrator.

B. All building façades that face a public street in the UC District (all subdistricts) shall be constructed of the following materials:

i. Brick, stone, painted lap cement fiberboard and stucco or exterior insulation finish system (E.I.F.S.) shall be the primary materials on each facade.

ii. Natural wood clapboard, wood board and batten, wood shingles, vinyl, aluminum, or steel siding may be permitted as secondary materials as permitted by fire code ratings. For the purposes of this standard, secondary shall mean less than 50 percent.

iii. Visible roofing materials to be used are dimensional asphalt, slate, tile, or standing seam.
1212.01 PURPOSE

City Council hereby declares as a matter of public policy that the protection, enhancement, and perpetuation of Landmarks, Historic Districts, and Conservation Districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City of Middletown has many significant historic, architectural, and cultural resources which reflects its heritage, this act is intended to:

(a) Protect and enhance the Historic Landmarks, Historic Districts, and Conservation Districts which represent distinctive elements of Middletown’s historic, architectural, and cultural heritage;
(b) Foster civic pride in the accomplishments of the community in the past;
(c) Stabilize and improve property values of designated landmarks, neighborhoods, and districts;
(d) Protect and enhance Middletown’s attractiveness to visitors, tourism, and the support and stimulus to the economy thereby provided;
(e) Insure the harmonious, orderly, and efficient growth and development of Middletown affording the widest possible scope of continuing vitality through private renewal and architectural creativity, within appropriate controls and standards. It is intended to foster a climate in which the City’s historic areas may continue to exist as living, changing commercial and residential areas, not static museums;
(f) Encouraging development of vacant and incompatibly developed properties in accordance with the character of the area;
(g) Providing preservation information and advice to property owners and the general public;
(h) Maintaining and enhancing the distinctive character of historic buildings and areas;
(i) Safeguarding the heritage of the City by preserving districts which reflect elements of its history, architecture, archaeology, engineering or culture; and
(j) Provide a review process for the continued preservation and protection of Middletown’s historic resources.

1212.02 DESIGNATION OF A HISTORIC LANDMARK OR HISTORIC DISTRICT

(a) Proposals to designate or expand historic districts, conservation districts, or designate historic landmarks may be initiated by the Historic Commission, a property owner or by motion of Planning Commission or City Council. Proposals initiated by property owners, Planning Commission or Council shall be referred to the Historic Commission for recommendation and initiation of the formal designation process.

(b) Proposals to designate or expand a historic district or conservation district shall be submitted with a rezoning application as well as the information listed below. Proposals to designate a historic landmark shall include, at a minimum, the following additional information:
Evidence of property owner interest in landmark designation or location within the proposed historic district.

A boundary description.

An inventory of historic resources.

A description of the architectural and historical significance of properties within the proposed boundaries, including photo documentation of unique elements and also those that are stereotypical of the architectural style.

A map or description of existing zoning.

In considering any area, place, structure, work of art or similar object in the City as a historic site, or historic district, or conservation district, the Historic Commission shall apply the following criteria:

1. The structure or site or area's character, value, or significance as part of the development of the City, the State, or the United States;
2. Its location as a site or area of a significant historic event;
3. Its identification with a person who significantly contributed to the development of the City;
4. Its embodiment of distinguishing characteristics of an architectural style or type;
5. Its exemplification of the cultural, economic, social or political heritage of the City;
6. Its relationship to other distinctive areas or structures designated for preservation;
7. Its unique location or singular physical characteristic representing an established and familiar feature of the City; and
8. Its inclusion of prehistoric and/or historic archaeological sites or other important representations of previous cultures.

Designation Procedure

The previously named entities, individuals, or Historic Commission shall have the authority to propose designations of any area, place, structure, work of art, or similar object in the City as a historic site, or historic district, or conservation district. The following shall be the procedure for the formal designation of such places or areas.

Step 1 – Development Code Administrator Recommendation Required

A. The Historic Commission shall advise the Development Code Administrator of the proposed designation and secure from the Development Code Administrator a recommendation with respect to the relationship of the proposed designation to the Master Plan of the City and any applicable Historic Preservation Plan.

B. The Development Code Administrator shall give an opinion as to the effect of the proposed designation upon the surrounding neighborhood and an opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with a recommendation of approval, rejection, or modification of the proposed designation.

C. Such recommendation shall be submitted in written form by the Historic Commission, along with its recommendation concerning the proposed designation.
D. The Historic Commission shall make a decision whether to proceed with the designation review based on the recommendation of the Development Code Administrator.

(2) Step 2 – Notification

E. If the Historic Commission decides to proceed with designation, the Development Code Administrator shall notify the owner of all properties under consideration for designation. For the purpose of designation or expansion of a group or district, notice shall be published on the City’s webpage and shall be mailed or otherwise distributed to each owner of real property located within such group or district. Whenever possible, the Historic Commission shall secure the owner’s written consent for submittal of the proposed designation, together with its recommendation of findings of fact.

F. The Historic Commission shall make a recommendation concerning the designation of the property to the City Council. Once the proposal to establish or expand a preservation district or to designate an individual property or structure as a historic landmark has been reviewed, the Historic Commission shall schedule a public hearing. The public hearing shall not be more than thirty (30) calendar days after such a proposal is submitted. Notice of the public hearing shall be given according to the following:

i. The Historic Commission shall give the owner(s) not less than fourteen (14) calendar days' written notice of the date, time and place of such hearing.

ii. Notice of the public hearing shall be given to at least one (1) or more newspapers of general circulation in the City. The notice shall be published at least ten (10) calendar days before the date of the hearing.

iii. Notices shall include the time and place of the public hearing, a summary of the proposal and a statement that opportunity to be heard will be afforded to any person interested. Failure of delivery of such notice shall not invalidate any such amendment.

iv. The original application, all comments and additional considerations presented at the public hearing, and the recommendation of the Historic Commission shall be forwarded to the City Council for its consideration.

(3) Step 3 – Historic Commission Public Hearing

A. The Historic Commission shall conduct the public hearing as provided and shall provide an opportunity for all interested parties to express their opinions.

B. The Historic Commission shall determine if any or all of the criteria listed in Section 1212.02 have been met.
C. The Commission shall then make a recommendation regarding the proposed designation, in writing, within 30 days after the initial hearing date and shall notify the owner or any person having a legal interest in such property, as well as other interested parties who request a copy.

D. The Historic Commission shall state in its recommendation findings of fact that constitute the basis for its decision and shall transmit such recommendation concerning the proposed designation to the Middletown City Council.

(4) Step 4 – Consideration by City Council

A. The City Council shall give due consideration to the findings and recommendations of the Historic Commission, input provided by the persons participating in the public hearing before the Historic Commission, in addition to the recommendation of the Development Code Administrator, in making its determination with respect to the proposed designation of any areas, places, structures, works of art or similar objects as historic sites or historic districts.

B. The City Council may, at its discretion, hold public hearings on any such proposed designation, whether such designation is proposed with the consent of the owner or after public hearings before the Historic Commission. The City Council may then designate by ordinance areas, places, structures, works of art, or similar objects as historic sites, or historic districts, or conservation district.

(5) Step 5 – Notification of Designation

Within 14 days, the Historic Commission shall notify the Chief Building Official of the official designation. The Commission shall also send, by certified mail, a certified copy of the designation ordinance to the owner and any person having a legal interest in any properties involved in the designation.

(6) Step 6 – Record of Designation

The Historic Commission shall direct the Law Director to cause a record of such designation to be filed with the applicable county recorder.

1212.03 Minimum Maintenance Standards

(a) Maintenance Required

Nothing in this chapter shall be construed to prevent the ordinary repair and maintenance of any exterior architectural feature of a historic landmark, or historic district, or conservation district property which does not involve a change in design, material, color, or outward appearance. No owner or person with an interest in real property designated as a historic landmark or property within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Commission, produce a detrimental effect upon the character of the historic landmark or historic district as a whole, or the life or character of the property itself. Examples of such deterioration include:

(1) Deterioration of exterior walls or other vertical supports;
(2) Deterioration of roofs or other horizontal members;
(3) Deterioration of exterior chimneys;
(4) Deterioration of exterior stucco, siding, trim, brick, stone or mortar, including chipping or peeling paint;

(5) Ineffective waterproofing of exterior walls, roofs, roof drainage systems, foundations, including broken or damaged windows and doors;

(6) The accumulation of rubbish and debris;

(7) Any condition as to cause fire or explosion or to provide a ready source of fuel to augment the spread or intensity of fire or explosion arising from any cause; and

(8) Failure to adequately secure a building or structure to prevent vandalism or destruction of a property.

(9) All other provisions of the City’s codified ordinances regarding maintenance of property.

(b) Inspection of and Notice to Repair

(1) The Historic Commission shall have the authority to direct the Development Code Administrator, in conjunction with the Chief Building Official, to investigate and inspect, any building which, in its opinion, may be a substandard historic building in accordance with this section.

(2) The Development Code Administrator and the Chief Building Official shall also have the authority to investigate and inspect, any building which, in its opinion, may be a substandard historic building in accordance with this section.

(3) Any investigation and inspection shall take place within 30 calendar days of an initial notification from the Historic Commission or identification by the Development Code Administrator or Chief Building Official.

(4) After an inspection, the Development Code Administrator shall relay their findings to the Historic Commission. If after inspection it is found that such building is substandard, the Development Code Administrator shall give written notice shall be posted to the Historic Commission and owner of record or person responsible for the property, or if unable to effect such notice by posting on the premises, stating in what respects the building is substandard, and setting forth the repairs, alterations or improvements to such building required to correct such substandard conditions or preserve the building, and a reasonable period of time in which the required work shall be done.

(5) Such notices shall also inform the owner or person responsible that the Development Code Administrator’s and Chief Building Official’s findings will be subject to appeal as provided in the notice.
1216.04 Landscaping Materials

(d) Planting Standards

All plants utilized in the fulfillment of the requirements of this section shall meet the following requirements:

1. Plants installed shall meet the standards for size, form, and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition); and

2. All planting materials shall follow the City of Middletown Comprehensive Plant Species list.

3. Trees shall be balled and burlapped or in containers. Shrubs, vines, and ground covers can be planted as bare root as well as balled and burlapped or from containers.

4. Plant materials should consist of hardy, native and/or drought-tolerant vegetation to the maximum extent feasible.

5. All planting materials shall be free of noxious weeds, disease, and pests.

6. All trees selected to be protected shall be protected according to ANSI A300 standards.

7. Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the City.

8. Vegetation shall comply with the minimum size requirements established in Table 1216-1.

<table>
<thead>
<tr>
<th>TABLE 1216-1: MINIMUM SIZE REQUIREMENTS FOR VEGETATION</th>
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<tbody>
<tr>
<td>VEGETATION TYPE</td>
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<tr>
<td>-----------------------------------------------------------</td>
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<tr>
<td>Deciduous Trees (Canopy or Understory)</td>
</tr>
<tr>
<td>Evergreen Trees</td>
</tr>
<tr>
<td>Shrubs</td>
</tr>
<tr>
<td>Hedges</td>
</tr>
</tbody>
</table>

9. Vegetation shall be subject to review by the Natural Resource Coordinator when applicable.

10. A list of recommended trees for Middletown is on file with the office of the Development Code Administrator. Substitution can be accepted if approved by the Development Code Administrator.
(n) **Prohibited Signs**

The following types of signs are specifically prohibited within the City:

1. **Vehicle signs viewed from a public road with the primary purpose of providing signage not otherwise allowed by this code. Vehicle signs include those attached to or placed on a vehicle or trailer. Vehicles or trailers shall not be parked continuously in one location to be used primarily as additional signage. This does not apply to a vehicle parked at a driver’s residence and is the primary means of transportation to and from his or her place of employment.**

2. **Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;**

3. **Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign.**

4. **Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention;**

5. **Beacons and searchlights, except for emergency purposes; and**

6. **Signs mounted above the roofline of a building.**

7. **Deteriorated Signs that are unsafe and or insecure;**

8. **Abandoned Signs;**

9. **Windblown devices, not including projecting signs,**

10. **Blade Signs;**

11. **Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;**

12. **Balloon signs or air activated signs; and**

13. **Any sign not specifically allowed by this chapter.**
EXHIBIT “L”

Chapter 1220: Signage

1220.09 Temporary Signs

The following temporary signs shall be permitted anywhere within the City provided they meet the established standards.

(a) Standards that Apply to all Temporary Signs

1. Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.

2. No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.

3. Unless otherwise specifically stated, temporary signs shall not be illuminated.

4. No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.

5. No streamers, spinning, flashing, or similarly moving devices shall be allowed as part of or attachments to temporary signs.

6. All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.

7. Mobile signs on wheels, runners, casters, parked trailers, parked vehicles, or other temporary or movable signs shall not be permitted unless otherwise specifically stated in this chapter.

8. Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such sign is deteriorated.

(b) Temporary Signs in Residential Zoning Districts

1. The following temporary signs are allowed on any lot in a residential zoning district or in a residential PD:

   A. Up to a total of 24 square feet of temporary signs are permitted on each lot in a residential zoning district, including any lot in a residential PD.

   B. The signs are limited to yard signs or banner signs subject to the sign-specific standards in Section 1220.09(d).

   C. There shall not be a maximum number of signs but the maximum sign area for any individual sign shall be six square feet with a maximum height of four feet.

   D. A certificate of zoning compliance shall not be required for these signs.

2. In lieu of the above regulations, any nonresidential use located in a residential zoning district shall be permitted the same amount of temporary signs as allowed in the B-1 District pursuant to Section 1220.09(c).
Temporary Signs in Nonresidential Zoning Districts

(1) Year Round Signage Allowance
The following temporary signs are allowed on any lot in a nonresidential zoning district or in a nonresidential PD, without time restrictions:

A. Up to a total of 24 square feet of temporary signs are permitted on each lot.
B. The signs are limited to yard signs or banner signs subject to the sign-specific standards in Section 1220.09(d).
C. There shall not be a maximum number of signs but the maximum sign area for any individual sign shall be six square feet with a maximum height of four feet.
D. A certificate of zoning compliance shall not be required for these signs.

(2) Additional Signage
A. In addition to the signage allowed year round above, Table 1220-3 establishes the total square footage, height, and allowances for temporary signs allowed on each individual lot, in the applicable nonresidential zoning district.
B. Each sign type shall be subject to the standards established for each sign type in this section.
C. There shall be no maximum number of signs provided the aggregate total square footage of sign does not exceed the amount established in Table 1220-3 unless limited by the sign type standard.
D. A certificate of zoning compliance shall be required for any sign over 16 square feet in sign area unless otherwise stated in this section.

<table>
<thead>
<tr>
<th>SIGN TYPE</th>
<th>DISTRICTS AND SUBDISTRICTS ALLOWED</th>
<th>MAXIMUM SIGN AREA (SQUARE FEET)</th>
<th>MAXIMUM SIGN HEIGHT (FEET)</th>
<th>TIME LIMITS</th>
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</thead>
<tbody>
<tr>
<td>A-Frame or T-Frame Sidewalk Signs</td>
<td>All Districts and Subdistricts</td>
<td>8</td>
<td>4</td>
<td>See Section 1220.09(d)(1).</td>
</tr>
<tr>
<td>Balloon or Air Activated Graphics</td>
<td>All Districts and Subdistricts except UC-C and UC-S</td>
<td>50</td>
<td>12</td>
<td>14 consecutive days, one time per calendar year</td>
</tr>
<tr>
<td>Banner Signs</td>
<td>All Districts and Subdistricts</td>
<td></td>
<td>See Section 1220.09(d)(3).</td>
<td></td>
</tr>
<tr>
<td>Blade Signs</td>
<td>All Districts and Subdistricts except UC-C and UC-S</td>
<td>24</td>
<td>8</td>
<td>14 consecutive days, four times per calendar year</td>
</tr>
<tr>
<td>Flag Banner Signs</td>
<td>All Districts and Subdistricts</td>
<td>20</td>
<td>None</td>
<td>14 consecutive days, four times per calendar year</td>
</tr>
<tr>
<td>Yard Signs</td>
<td>All Districts and Subdistricts</td>
<td>24</td>
<td>5</td>
<td>14 consecutive days, four times per calendar year</td>
</tr>
</tbody>
</table>
(d) Standards for Temporary Sign Types

(1) A-Frame or T-Frame Sidewalk Signs
A-Frame or T-Frame sidewalk signs are permitted in any nonresidential district in accordance with the following requirements;

A. A certificate of zoning compliance shall be required for the initial placement of a sign. If a sign with an approved certificate of zoning compliance is replaced by a sign identical in size and location, a new certificate of zoning compliance shall not be required for the replacement sign.

B. The sign may be located on a public or private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas.

C. If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven feet wide.

D. The sign must be free-standing and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.

E. The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.

F. The sign shall be internally weighted so that it is stable and windproof.

G. The sign shall only be placed outside during the hours of the establishment’s operation.

H. The City of Middletown shall be held harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign.

(2) Balloon or Air-Activated Signs

A. Only one balloon or air activated sign is allowed on any lot at one time.

B. The sign shall be securely anchored to the ground.

C. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height. Such setback shall include any wires, rope, or other materials used to securely fasten the sign to the ground.

(3) Banner Signs

A. Banner signs may be attached to a building, fence, or other similar structure. Banners attached to posts and mounted in a yard or landscape area shall be regulated as a temporary yard sign.

B. The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

C. The maximum sign area for banner signs shall be 24 square feet.
D. Banner signs shall be permitted for up to 15 consecutive days, four times per calendar year with the exception of paragraph (E) below.

E. For certificates of zoning compliance applications related to the establishment of a new use within an existing building where there is existing permanent signage, a banner sign may be approved for up to 45 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign and shall require a certificate of zoning compliance.

(4) Blade Signs
A. There shall be a minimum separation distance of 50 feet as measured along the street frontage.
B. The signs shall be securely anchored in the ground or within a portable base designed for such function.
C. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height.

(6)(3) Flag Banner Signs
A. Flag banner signs shall be mounted on the building wall either by bracket or by a pole.
B. The bottom of the flag banner sign shall be no lower than nine feet measured from grade of the property line closest to the banner.
C. Flag banner signs shall not extend beyond three feet over the sidewalk measured from their point of mounting on the storefront wall.
D. Flag banner sign mounting devices shall have structural integrity as authorized by the Chief Building Official.

(6)(4) Yard Signs
There shall be a maximum of two faces to the sign, mounted back-to-back.
(a) **Purpose**

The purpose of the certificate of appropriateness (COA) is to provide a procedure by which to review construction, renovation, expansion, and demolition projects on structures located in the Highlands Historic District and the South Main Historic District, Main Street Commercial District, Central Avenue Commercial District, Oakland Conservation District, or a structure that is designated by the City Historic Commission or National Register. In an effort to preserve the character of this area, the City has established reasonable development standards and design guidelines for buildings and structures within the district and this procedure allows for a comprehensive review of the activities against the adopted standards and guidelines.

The Development Code Administrator will review Certificate of Appropriateness applications based on the review criteria outlined in this code as well as the Secretary of the Interior Standards for the Treatment of Historic Properties and the Rehabilitation Bulletin. Applicants are encouraged to use the Secretary of the Interior Standards for the Treatment of Historic Properties and the Rehabilitation Bulletin as a reference for preservation projects.

(b) **Applicability**

(1) **Historic District**

(4) **A.** No person owning, renting, or occupying property which has been designated a landmark or which is situated in a designated historic district shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a historic landmark or property within a historic district, nor shall any person make any material change in appearance of such property, its light fixtures, signs, awnings, windows, siding, roof, doors, shutters, sidewalks, fences, walls, retaining walls, steps, paving, or other exterior elements which affect the appearance and cohesiveness of the historic landmark or historic district, without first obtaining a certificate of appropriateness from the Historic Commission or Development Code Administrator, as applicable. No permits for zoning, building or demolition shall be issued without first obtaining a certificate of appropriateness.

(2) **B.** Site improvements such as the establishment of a parking lot or structure, landscaping, or other site work shall also be subject to this section unless otherwise waived by the Historic Commission.

(2) **Conservation District**

No person owning, renting, or occupying property that is located within a designated Conservation District shall carry out any major exterior alteration such as an addition, new construction, or demolition of a structure that is visible from the public right-of-way without first obtaining a Certificate of Appropriateness from the City Historic Commission or Development Code Administrator, as applicable. No permits for
zoning, building or demolition shall be issued without first obtaining a required certificate of appropriateness.

The Development Code Administrator has the authority to review and forward any exterior alterations to the City Historic Commission that they feel do not preserve/enhance the neighborhood Conservation District.

(3) Any application to the City for a building permit for any change in the environment or the exterior of a building shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, within seven days after receipt thereof. An application may be filed by the applicant directly with the Commission at the same time that an application for a building permit is filed or in lieu of filing for a building permit if no building permit is required for the proposed change. A building permit shall not be issued until a Certificate of Appropriateness is issued.

(4) Projects and activities that are exempt from the design review process are the following:

A. Ordinary repair and maintenance of a building or structure which does not change or alter the exterior appearance of the building or structure;

B. Changes in occupancy not involving structural or exterior work;

C. Interior electrical wiring, VAC or plumbing work on an existing structure;

D. Work that is related to the replacement of existing materials and architectural elements with the same materials, colors, and designs; and

E. Interior building renovations which will not alter and/or affect the exterior elevations and facade of the building or structure or any architectural features that are visible from the outside, unless otherwise prohibited in Section 1212.03.

F. No certificate of appropriateness shall be required if immediate action, including demolition, is necessary to remedy conditions imminently dangerous to life, health or property as determined by the Chief Building Official or the Division of Fire or the Department of Public Health.
Conservation District (CD)
Any area designated by ordinance of the City to preserve a defined district’s character, architecture styles, densities, massing, and similar features.

Microbrewery, Microdistillery or Microwinery
An establishment with a primarily use as a bar or tavern where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises in a limited quantity subordinate to the primary table service restaurant use. The gross floor area utilized in a microbrewery, microdistillery or microwinery for the production of beer, liquor, wine, or other alcoholic beverage shall be no greater than the gross floor area utilized for the associated bar or tavern. A microbrewery, microdistillery or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law. A tasting room or taproom may exist in a microbrewery, microdistillery or microwinery where patrons may sample the manufacturer’s products.