

**CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. Sommers

Sec'd by Ald. Masi

Date of Adoption: 04-01-14

Index No: 86-14

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Kleiner	X			
Ald. Witt	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Sommers	X			
Ald. Jean-Francois				X
Ald. Burr	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	8			1

WHEREAS, at the request of the Commissioner of Public Works and the Assistant Corporation Counsel, the Common Council wishes to update and clarify the notice provisions associated with prosecuting violations of the Uniform State Codes.

NOW THEREFORE, be it Resolved and Ordained, by the Common Council of the City of Middletown:

Section 1. The Code of the City of Middletown, N.Y., Chapter 296, Housing, Article I, Minimum Housing Standards, be and is hereby further amended by renaming Article I, as follows:

Article I. Enforcement.

Section 2. The Code of the City of Middletown, N.Y., Chapter 296, Housing, Article I, be and is hereby further amended by replacing Section 296-1 in its entirety, to read as follows:

Section 296-1. Purpose.

The Common Council hereby recognizes the obligation to enforce the New York Uniform Fire Prevention and Building and Property Maintenance Codes for

the purpose of protecting the public health, safety, and welfare of the people of the City of Middletown.

Section 3. The Code of the City of Middletown, N.Y., Chapter 296, Housing, Article I, be and is hereby further amended by replacing Section 296-2 in its entirety, to read as follows:

Section 296-2. Notice of Violation.

A. Notice. Whenever the Commissioner of Public Works or his designee determines that there has been a violation or that there are reasonable grounds to believe that there has been a violation of any provision of the New York Uniform Fire Prevention and Building and Property Maintenance Codes, he or she shall give notice of such violation to the person or persons responsible for such violation. Such notice shall be in writing and shall specify the alleged violation and shall provide a stated time for compliance and shall be served upon the owner, agent, operator or occupant, as the case may require. Such notice may contain an outline of remedial action which, if taken, will effect compliance with the Uniform Codes. Such notice shall be deemed to be properly served upon such owner, agent, operator or occupant if:

- (1) A copy thereof is served upon him or her personally; or
- (2) A copy thereof is sent by regular mail to the last known address of such person; or
- (3) In the event an address is not available, a copy thereof is posted in a conspicuous place in or about the building affected by the notice.

B. Notice not required. The aforesaid notice shall not be required if:

- (1) The owner, agent, operator or occupant caused or allowed the subject violation to exist; or
- (2) The owner, agent, operator or occupant has verbal or other actual notice from the Department of Public Works or any other source of the subject violation; or
- (3) The owner, agent, operator or occupant has constructive notice of the alleged violation; or
- (4) The alleged violation constitutes an imminent threat to the health, safety or welfare of the occupants of the subject premises, or the occupants of nearby premises, or the general public.

Section 4. The Code of the City of Middletown, N.Y., Chapter 296, Housing, Article I, be and is hereby further amended by replacing Section 296-3 in its entirety, to read as follows:

Section 296-3. Penalties for offenses.

Any person who violates or assists in the violation of the New York Uniform Fire Prevention and Building and Property Maintenance Codes, or any

person who fails to comply with a notice of violation issued pursuant to Section 296-2(A) shall, upon conviction, be guilty of an offense punishable by a fine of not less than \$250 nor more than \$1,000, or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense. The term “person”, as used in this section, shall include the owner, occupant, mortgagee, vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation directly or indirectly in control of a premises or part thereof.

Section 5. The Code of the City of Middletown, N.Y., Chapter 296, Housing, Article I, be and is hereby further amended by replacing Section 296-4, in its entirety, to read as follows:

Section 296-4. Duties of Commissioner.

A. The New York Uniform Fire Prevention and Building and Property Maintenance Codes shall be enforced by the Department of Public Works, under the supervision of the Commissioner of Public Works.

B. A report of the Commissioner of Public Works shall be made annually and transmitted to the Mayor and Common Council, and it shall contain proceedings undertaken under this Article, with such statistics as the Commissioner may wish to include therein.

Section 6. This Ordinance shall take effect immediately.