

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

THE FOLLOWING WAS PRESENTED

By Ald. Johnson

 Sec'd by Ald. Masi

 Date of Adoption 02.21.23

 Index No: LL#1 of 2023

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Tobin				X
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	8			1

LOCAL LAW #1 OF 2023

A LOCAL LAW TRANSFERRING AUTHORITY REGARDING THE FIRE POLICE
TO THE FIRE DEPARTMENT

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF
MIDDLETOWN AS FOLLOWS:

Section 1. Purpose of this Enactment. The purpose of this enactment is to transfer authority regarding the Fire Police from the Police Commission to the Fire Department.

Section 2. Paragraph 4 of Section 129 of the Charter of the City of Middletown is hereby deleted in its entirety.

Section 3. Paragraph 5 of Section 129 of the Charter of the City of Middletown is hereby replaced in its entirety to read as follows:

5. To provide by rule or regulation as to the qualifications of a person to be a police officer of said city, or to be chief of police, a lieutenant of police or a sergeant of police of said city; or to be a special police officer; provided, however, that no person not

theretofore a police officer of the city shall receive an original appointment as police officer unless he is over the age of twenty-one years and under the age of thirty-five years; and no person shall be appointed to membership in the police force or continue to hold membership therein, who is not a citizen of the United States or who has been convicted of a felony or who cannot understandingly read or write the English language or who shall not have resided in this state during one year next preceding his appointment; and no person shall continue to hold his position as police officer or as a member of the police force in any capacity after he has reached the age of sixty-five years.

Section 4. Paragraph 7 of Section 129 of the Charter of the City of Middletown is hereby replaced in its entirety to read as follows:

7. To enact, modify and repeal orders, rules and regulations for the government and discipline of the police department; to define the duties of all police officers and of the chief of police, the lieutenants of police and the sergeants of police; and to define the powers and duties of special police officers.

Section 5. Section 159-A of the Charter of the City of Middletown is hereby replaced in its entirety to read as follows:

§ 159-A. The Mayor, after receiving recommendations from the Chief of the Fire Department, shall appoint qualified persons to be fire police of the City of Middletown. The Mayor shall appoint such number of persons to be fire police as he/she deems to be necessary and proper. The persons appointed as fire police shall hold office for one (1) year from time of appointment.

(1) All applicants for appointment as a fire policeman, shall be citizens of the United States, over the age of twenty-one (21) years, residents of the City of Middletown, and members of a volunteer fire company organized in the City of Middletown. No person shall be appointed as a fire policeman who shall have been previously convicted of a felony or a misdemeanor involving moral turpitude.

(2) All persons appointed as fire policemen shall take an oath of office as prescribed by New York General Municipal Law Section 209-c or any successor statute.

(3) No person may take the oath of office as a fire policeman without first completing all of the training required for peace officers and fire police by New York State law and the Division of Criminal Justice Services (“DCJS”), including training in the use of firearms and other weapons and in the use of physical and deadly physical force.

(4) Upon filing the oath of office with the City Clerk, such appointees shall thereupon, as required by New York State law, become vested while on duty with all the powers and shall discharge all the duties of peace officers.

(5) The Chief of the Middletown Fire Department or his/her designee must submit a Peace Officer Registry Entry/Certification of Initial Appointment form to DCJS for each new appointee. However, Section III of this form does not have to be completed; nor does the form have to include the signature of the City's Civil Service Administrator. Additionally, the Chief or his/her designee must annually transmit to DCJS no later than January 15th a list of those peace officers who are members of the fire police squad or those who have ceased to serve in the previous twelve months.

(6) It shall be the duty of the fire police, to detect and prevent fires; to place fire lines so as to provide facilities for the Fire Department to work advantageously; to keep unauthorized persons outside such fire lines; to aid and assist the police department in regulating highway traffic to and from all fires; to enforce all ordinances of the City relating to the protection of the fire department apparatus and members. The fire police shall obey all orders, rules and regulations as promulgated by the Chief or any assistant Chief of the Fire Department. Additionally, fire policemen, when not engaged in actual firefighting duties, are subject to and subordinate to the authority of all police officers, State Troopers, and County Sheriff's deputies.

(7) Fire police are not authorized to carry firearms or weapons while on duty, unless specifically authorized to do so by the Mayor for a specified event; however, no member of the fire police can carry a firearm on duty unless he/she possesses the appropriate license to do so pursuant to Section 400.00 of the New York Penal Law.

(8) The Mayor may at any time he/she deems necessary and for the public interest deputize and appoint for such period as he/she may direct, any fire policeman as a special police officer as provided by § 129 of this Charter and such fire police shall thereupon become vested with and shall discharge all the duties of police officers.

(9) Any fire policeman during the tenure of his/her appointment shall be accorded and possessed with the same rights and privileges if injured or killed while in the active performance of his/her duties as are now accorded and possessed by volunteer firemen by the laws of the State of New York.

(10) Fire police are to be disciplined in the same manner as paid firemen in accordance with Section 157-B of this Chapter. Fire police are subject to and entitled to the protections of all provisions of Section 157-B.

(11) For the purpose of furthering the objects for which they are appointed and in conformity with the requirements of the Fire Department, the fire police are authorized and empowered to form an organization to be known as the Middletown Fire Police; to elect one captain, one sergeant, one roundsman, a secretary and a treasurer, as their officers, and to adopt by-laws for the guidance of the organization not inconsistent with the provisions of this Charter, which by-laws must be approved by the Mayor and Common Council. Such fire police may adopt a uniform, cap and badge for their better identification, subject to the approval of the Chief of the Fire Department.

Section 6. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

Section 4. Effective Date.

This Local Law shall be effective upon filing with the office of the Secretary of State.