

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

THE FOLLOWING WAS PRESENTED

By Ald. Sabnis

Sec'd by Ald. Smith

Date of Adoption: 04-03-12

Index No: 96-12

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Amodio	X			
Ald. Burr	X			
Ald. Ramkissoon	X			
Ald. Smith	X			
Ald. Sommers				X
Ald. Masi	X			
Ald. Sabnis	X			
Ald. Sierra	X			
Pres. Rodrigues	X			
TOTAL	8			1

WHEREAS, the Common Council wishes to provide further discretionary authorization to the Commissioner of the Department of Public Works to revoke Chapter 296 permits in order to strengthen and improve code enforcement and the quality of life in rental units and surrounding neighborhoods.

NOW THEREFORE BE IT Resolved, and be it Ordained, by the Common Council of the City of Middletown, New York, as follows:

Section 1 - The Code of the City of Middletown, N.Y., Chapter 296, Housing, as adopted July 27, 1959, and as amended thereafter, be and is hereby amended by replacing Subsection B, Discretionary revocation, of Section 296-23, Revocation of permit, to read as follows:

B. Discretionary revocation. The Commissioner of Public Works may revoke a permit issued under this article when

- (1) the permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit was issued for a period of 10 days or more after written notice has been given to the permit holder or the managing agent of such rental unit a violation of the Multiple

Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the codes and ordinances of the City of Middletown, or

(2) the subject premises contains a violation or violations of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the codes and ordinances of the City of Middletown, which violation(s) are determined by the Commissioner of Public Works in his discretion to be a danger to the health or safety of residents of the subject premises or neighboring, or

(3) the subject premises has incurred repeated violations of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the codes and ordinances of the City of Middletown, during the life of the subject permit, which violations are determined by the Commissioner in his discretion to constitute an adverse impact upon the quality of life, the enjoyment or value of property and the welfare of the surrounding neighborhood.

Section 2 - The Code of the City of Middletown, N.Y., Chapter 296, Housing, as adopted July 27, 1959, and as amended thereafter, be and is hereby amended by adding a paragraph (3) to Subsection C, Hearings, of Section 296-23, Revocation of permit, to read as follows:

(3) In the event the permit holder is not satisfied with the decision of the special committee, such permit holder may file an Article 78 proceeding under the New York Civil Practice Law and Rules, except that such Article 78 proceeding must be filed within 30 days of the filing of the special committee's decision with the City Clerk of the City of Middletown and service of the same upon the permit holder.

Section 3 - The Code of the City of Middletown, N.Y., Chapter 296, Housing, as adopted July 27, 1959, and as amended thereafter, be and is hereby amended by replacing Subsection D, Reapplications, of Section 296-23, Revocation of permit, to read as follows:

D. Reapplications. A permit holder whose permit has been revoked pursuant to the provision of this section may not reapply for a permit for the premises which was the subject of the revocation until three years after the date of revocation, unless the Commissioner of Public Works, in his sole discretion,

allows an earlier reapplication. In all other respects, reapplications shall be considered pursuant to the provisions of this article governing application.

Section 4 - The Code of the City of Middletown, N.Y., Chapter 296, Housing, as adopted July 27, 1959, and as amended thereafter, be and is hereby amended by replacing Section 296-37, Hearings, to read as follows:

§296-37. Hearings.

A. If a decision is made not to renew a rental permit application, or if a decision is made to revoke a permit, the permit holder shall be notified of the reason(s) therefor by written notice from the Commissioner mailed to the permit holder by regular and by certified mail, return receipt requested. A permit holder has 10 working days from the date of such written notice to request a hearing before a special committee of the Common Council as hereinafter provided. All requests for hearings must be in writing, directed to the Clerk of the Common Council, and accompanied by a fee of \$100. If the permit holder requests such a hearing, the permit holder shall be issued a temporary permit by the Commissioner of Public Works which shall expire 60 days after the final decision of the special committee of the Common Council. No temporary permits may be issued in the event of a revocation of a rental permit.

B. Upon a request for a hearing, the President of the Common Council shall designate a special committee to consist of the President of the Common Council and one Alderperson from each ward. The President shall act as presiding officer at the hearing. The hearing shall be conducted within 30 days after receipt of the request therefor. The hearing shall be public, and the permit holder may be represented by counsel and shall be able to call witnesses in his or her behalf. The special committee in its discretion may rescind a revocation for good cause shown. The special committee shall issue a written decision within 20 days after the hearing, and the Clerk of the Common Council shall provide the permit holder with a copy of this decision within five business days after its issuance.

C. In the event the permit holder is not satisfied with the decision of the special committee, such permit holder may file an Article 78 proceeding under the New York Civil Practice Law and Rules, except that such Article 78 proceeding must be filed within 30 days of the filing of the special committee's decision with the City Clerk of the City of Middletown and service of the same upon the permit holder.

Section 5 - The Code of the City of Middletown, N.Y., Chapter 296, Housing, as adopted July 27, 1959, and as amended thereafter, be and is hereby amended by replacing Section 296-38, Revocation of permit; reapplication, to read as follows:

§296-37. Revocation of permit; reapplication.

A. Revocation of permit. The Commissioner of Public Works may revoke a permit issued under this article when

(1) the permit holder has caused, permitted, suffered or allowed to exist and remain upon the premises for which such permit was issued for a period of 10 days or more after written notice has been given to the permit holder or the managing agent of such rental unit a violation of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the codes and ordinances of the City of Middletown, or

(2) the subject premises contains a violation or violations of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the codes and ordinances of the City of Middletown, which violation(s) are determined by the Commissioner of Public Works in his discretion to be a danger to the health or safety of residents of the subject premises or neighboring, or

(3) the subject premises has incurred repeated violations of the Multiple Residence Law of the State of New York, or of the New York State Uniform Fire Prevention and Building Code, or of any of the codes and ordinances of the City of Middletown, during the life of the subject permit, which violations are determined by the Commissioner in his discretion to constitute an adverse impact upon the quality of life, the enjoyment or value of property and the welfare of the surrounding neighborhood.

B. Reapplication. A permit holder whose permit has been revoked pursuant to the provision of this section may not reapply for a permit for the premises which was the subject of the revocation until two years after the date of revocation, unless the Commissioner of Public Works, in his sole discretion, allows an earlier reapplication. In all other respects, reapplications shall be considered pursuant to the provisions of this article governing application.

Section 6 - This ordinance shall take effect immediately.