

# CHAPTER 2

## OFFICIALS, BOARDS, COMMISSIONS, AND EMPLOYEES

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# OFFICIALS, BOARDS, COMMISSIONS, AND EMPLOYEES

## 2.01 ORGANIZATION UNDER MAYOR PLAN

### (1) General Organization

The government of the City of Middleton is organized and constituted under Wis. Stat. Chapter 62 providing for a Mayor and Aldermanic Plan with a Common Council composed of the Mayor and eight (8) Alderpersons, one (1) from each district.

### (2) Mayor

The Mayor shall be elected for a term of three (3) years, commencing on the third Tuesday in April in the year of her or his election.

### (3) Alderpersons

Each Alderperson shall be elected for a term of two (2) years, commencing on the third Tuesday in April in the year of his or her election. Each Aldermanic District shall be represented by one Alderperson, elected on the following schedule: Districts 2, 4, 6, and 8 in even numbered years; Districts 1, 3, 5, 7 in odd numbered years.

## 2.02 COMPENSATION

Pursuant to the provisions of Wis. Stat. s. 62.09(6), the salaries of the Mayor, Alderpersons, and Municipal Judge are hereby fixed at the annual rates hereinafter indicated. The salaries of the Mayor and Alderpersons shall not be increased or decreased during the term for which such officers are elected. The salary of the Municipal Judge may be increased before the start of the second or subsequent year of service of the term of the judge, but shall not be decreased during a term. After May 1, 2026, no less than every five years, council shall review existing compensation levels for elected officials for the purpose of reaffirming or amending them.

|                 |             |                         |
|-----------------|-------------|-------------------------|
| Mayor           | \$14,400.00 | (effective May 1, 2007) |
| Alderpersons    | \$ 5,800.00 | (effective May 1, 2008) |
| Municipal Judge | \$14,400.00 | (effective May 1, 2007) |

Pursuant to Wis. Stat. s. 62.09(6)(c) said salaries shall be payable in monthly installments at the end of each month.

*O1614, 11/21/2023*

## 2.03 APPOINTED OFFICIALS

### (1) Appointments By Common Council

The following offices shall be filled by appointment by a majority vote of the Common Council for a definite term, subject to removal by a two-thirds (2/3) vote of the Common Council for incompetency, misconduct, inefficiency or failure to perform duties:

|  |                        |
|--|------------------------|
| Attorney   | Engineer               |
| Director of Parks and Recreation                       | Finance Director       |
| Assistant Director of Director of Parks and Recreation | Public Works Director  |
| City Clerk   | Senior Center Director |

The length of term and compensation of each office shall be determined by the Common Council at the time of hiring. The holder of any City office may be assigned additional duties or appointed to additional offices as the Common Council may direct from time to time. Any reference in this Code of Ordinances to a particular office shall be construed to refer to the holder of that office regardless of whether that individual also has been assigned additional duties or also holds other offices.

## **(2) Offices of Comptroller, Constable, and Street Commissioner Abolished**

The City, pursuant to Wis. Stat. s. 62.09(1)(b) hereby abolishes the office of Comptroller, the office of Constable, and the office of Street Commissioner. The statutory duties of the Comptroller shall be performed by the Finance Director; the statutory duties of the Constable shall be performed by the Chief of Police; and the statutory duties of the Street Commissioner shall be performed by the Engineer.

## **(3) Weed Commissioner**

The Weed Commissioner shall be appointed by the Mayor in May of each year for a term of one (1) year. The duties and powers of the Weed Commissioner are as prescribed in Wis. Stat. s. 66.0517.

## **(4) Other Officials**

The Mayor shall have the authority to appoint such other officials as are created from time to time by law or by the Common Council, whose appointments shall be confirmed by a majority vote of the Common Council and whose terms of office and compensation, if any, shall be prescribed by the Common Council. This subsection does not apply to appointments to positions on City boards, committees, or commissions.

## **(5) City Boards, Committees, and Commissions**

Except as expressly provided elsewhere in this chapter, all members of City boards, committees, or commissions under this Chapter shall be appointed and operate as follows:

- (a) **Appointment**  
Appointments shall be by the Mayor and subject to confirmation by a majority of the members of the Common Council. Members may be appointed to successive terms.
- (b) **Term**  
Appointments for citizen members shall be made on the third Tuesday in May for two-year terms beginning the first day of June following the appointment except that appointments for any positions expressly reserved for high school students or persons under the age of 18, shall be for one-year terms. Appointments to positions reserved for Alderpersons shall be made on the third Tuesday in April for one-year terms beginning on the first day of May following the appointment.
- (c) **Residency**  
Appointees shall be adult residents of the City of Middleton. This paragraph notwithstanding, wherever the ordinance creating the body calls for members with specific expertise and if, after reasonable efforts have been made to find a qualified City resident willing to serve fail, or if the residency of a member with such expertise changes mid-term, a non-resident may be appointed or continue to serve through the end of the term.
- (d) **Officers**  
Each board, committee or commission shall appoint its own officers including a Chair, Vice Chair and any other such officers deemed necessary or appropriate by the body. Such appointments shall occur annually at the first meeting of the body in June.
- (e) **City Staff Membership**  
The City Administrator may appoint Department Heads or employees of relevant City Departments to serve as ex officio members of any body under this chapter to serve as staff to the body.

- (f) Meetings and Notice  
Meetings shall be called by the Chair or, in the Chair's absence, the Vice-Chair. The Secretary or ex officio staff members shall give such notices of meetings as required. All meetings shall be noticed in accordance with Wisconsin's Open Meetings Law.
- (g) Quorum  
A quorum shall consist of a majority of the voting members of the body and all actions shall require a majority vote of the voting members present. A member of the body shall be considered present at a meeting and be counted for purposes of a quorum and be permitted to vote if they are physically present at the meeting location or are present by means of remote meeting technology in accordance with paragraph (j) below.
- (h) Vacancies  
A vacancy occurring in the membership of a body for any cause shall be filled by a person appointed by the Mayor and confirmed by the Council for the unexpired term.
- (i) Compensation  
The members of any body shall receive no compensation except for necessary expenses sustained in carrying out their duties, which expenses shall be paid by the City as may be authorized by the Council.
- (j) Remote Meeting  
Any board, commission or committee may, if authorized by majority vote of its members, or in absence of action by the body, by order of its Chair, conduct a meeting or allow one or more members to appear remotely using remote meeting technology. For purposes of this paragraph (j), "remote meeting technology" means electronic telecommunications technology, with a video component, which permits persons to participate in the meeting and engage in substantially simultaneous communication with other attendees of the meeting, including members of the public in attendance, as if the member or members were physically present at the meeting with all other attendees. Remote meeting or attendance is subject to the following:
1. This paragraph (j) shall be construed liberally and in accordance with Wisconsin's Open Meetings Law to permit remote meeting in a manner that operates in substantially the same manner as a meeting with all attendees physically present considering the purpose of the meeting and the purposes of the Open Meetings Law.
  2. Each member appearing remotely shall have video operating at all times.
  3. Any formal public hearing, not including general public comment periods, shall require remote meeting technology with a video component that allows all participants to view the speaker and any materials presented.
  4. All requests by individual members to appear remotely shall be made in advance with sufficient time available for remote meeting technology to be available and in working order giving due consideration to the location of the meeting and the nature of the agenda.
  5. This paragraph (j) shall not apply to permit remote meeting for any member or body when the body is meeting for the purpose of exercising any quasi-judicial function, nor to the Plan Commission for any final determination it is authorized to make on any application and that does not operate merely as a recommendation to the Common Council. Notwithstanding the foregoing, this subparagraph 4. shall not be construed to remove the discretion of a body to permit presenters, witnesses or other participants not members of the body to appear remotely by any means otherwise permitted by law.
  6. Nothing in this paragraph shall be construed to preclude any body from making arrangements for a member of a body to participate in a meeting by telecommunications technology without being counted toward the quorum or being permitted to vote.

O1597 3/07/23



## **2.04 CITY ADMINISTRATOR**

### **(1) Appointment**

The office of City Administrator shall be appointed by the Mayor subject to confirmation by the City Council for a definite term, subject to removal by three-fourths (3/4) vote of all members of the Common Council for cause. The length of the term and compensation shall be determined by the Common Council at the time of hiring.

### **(2) Authority**

The City Administrator shall possess the following powers within certain statutory limitations:

- (a) Complete authority and responsibility to direct and control all departments, except the police and library departments.
- (b) Responsibility for preparation and submission of the annual budget to the governing body.
- (c) Complete authority for budget implementation, including limited ability to transfer funds between items, up to \$1,000.
- (d) Responsibility and authority to recommend to the Mayor and City Council measures for adoption which are deemed appropriate problems, with the right to participate in all discussions on measures related to problems with the Mayor and governing body.

### **(3) Duties and Responsibilities**

The City Administrator shall perform all of the following duties and responsibilities:

- (a) Attend all Common Council meetings.
- (b) Submit to the Mayor and Council and make available to the public a complete report on the finances and programs of the City annually.
- (c) Make reports to the Mayor and Council concerning the operation of City departments, offices and agencies periodically.
- (d) Keep the Mayor and Council fully advised as to the financial condition and future needs of the city and make such recommendations to the Council concerning the affairs of the City as he or she deems desirable.
- (e) Serve as purchasing agent.
- (f) Be responsible for the agenda for Council meetings and order of business for all board and committee meetings.
- (g) Prepare and update a capital improvement plan.
- (h) Serve as aids coordinator for state and federal assistance.
- (i) Submit recommendations to the Mayor and Council for the more efficient operation of the City.
- (j) Supervise, direct and coordinate the City's long range planning program.

## **2.05 WATER RESOURCES MANAGEMENT COMMISSION**

### **(1) How Constituted**

The Water Resources Management Commission of the City of Middleton shall consist of seven (7) members, as follows:

- (a) Chair of the Board of Park and Recreation and Forestry Commission, or a Commissioner appointed by him or her.
- (b) One (1) Alderperson member.
- (c) Five (5) citizen members, two of whom shall possess expertise in water resource management, engineering or soil conservation, if available, and two of whom shall be selected for their concern and ability to work in attaining water management objectives in the public interest.

## **(2) Objectives and Powers**

The Commission shall study, plan and implement programs involving the management of water resources both within and, insofar as possible, beyond the corporate limits of the City of Middleton. All specific and related storm drainage, flood control, flood plain, stream, lake and shoreline projects and improvements which affect or may affect the City of Middleton or its residents shall be reviewed and analyzed by the Commission and its conclusions transmitted to the Common Council. The Commission shall have the use of the facilities of the Public Works Department and Planning Office of the City and may appoint such technical sub-committees as it deems necessary to assist in its planning functions, provided that all sub-committee appointments are first submitted to and approved by the Mayor, and may propose to the Common Council an annual budget to cover the anticipated expenditures believed necessary to carry out its objectives. The Commission shall prepare and update on an annual basis a detailed program on its duties, responsibilities and objectives for submission to the Common Council.

## **2.06 CITY PLAN COMMISSION**

### **(1) How Constituted**

The City Plan Commission of the City of Middleton shall consist of seven (7) members as follows: the Mayor, who shall be its Chair and presiding officer, the Chair of the Board of Park and Recreation Commissioners, an Alderperson, and four (4) citizens. Citizen members shall be persons of recognized experience and qualifications.

### **(2) Appointment**

- (a) Alderperson Member. The Alderperson member of the Commission shall be elected by a two-thirds (2/3) vote of the Common Council.
- (b) Citizen Members. The four (4) citizen members shall be appointed by the Mayor to hold office for a period of three (3) years, respectively. Except for every third year where two members shall be appointed, one member shall be appointed annually on the third Tuesday in April for a three (3) year term, commencing on the first day of May following his or her appointment.

### **(3) Presiding Officer**

Notwithstanding Section 2.03(5), the Mayor shall be the Chair and presiding officer. The Alderperson member shall be the Vice Chair and, in the Mayor's absence, the presiding officer over Plan Commission meetings.

### **(4) Meetings**

Meetings may be called by the Chair or Vice-Chair, and the secretary shall give such notices of meetings as the Commission may from time to time prescribe.

### **(5) Record of Proceedings**

The City Plan Commission shall keep a written record of its proceedings, to include all actions taken, and a copy shall be filed with the City Clerk.

### **(6) Powers to Employ Experts**

The City Plan Commission shall have the power to employ expert advice and such staff as may be necessary, and to pay for their services and such other expenses as may be necessary and proper within the limits of the budget established by the Common Council or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the Common Council.

### **(7) Powers and Duties**

The City Plan Commission shall have the powers and duties prescribed by Wis. Stat. s. 62.23, and such other powers and duties as shall be vested in it from time to time by the Common Council.

## **2.07 BOARD OF REVIEW**

### **(1) How Constituted**

The Board of Review of the City of Middleton shall consist of five (5) citizen members of diverse interests insofar as possible, and may include residents who hold public office or be publicly employed. Members shall be appointed by the Mayor, subject to confirmation by the Common Council. Each member shall be appointed for a term of five (5) years, ending on December 31 of the fifth full year of service.

### **(2) Powers and Duties**

The Board of Review shall have the powers and duties prescribed by Wis. Stat. s. 70.47.

### **(3) Compensation**

The members of the Board of Review shall receive such compensation as shall, from time to time, be fixed by resolution of the Common Council.

## **2.08 BOARD OF POLICE COMMISSIONERS**

The Board of Police Commissioners of the City shall consist of five (5) citizens, appointed by the Mayor. The Board shall have the power and authority conferred under the provisions of Wis. Stat. ss. 62.13(1), (3), (4), (5), (5m), (7), (7m)(b) and (7n).

## **2.09 PUBLIC WORKS COMMITTEE**

### **(1) Board of Public Works Dispensed With**

The Board of Public Works is hereby dispensed with pursuant to the provisions of Wis. Stat. s. 62.14(1). [Ordinance adopted May 1, 1963].

### **(2) Public Works Committee; How Constituted**

The statutory duties and functions of the "Board of Public Works", as prescribed by Wis. Stat. s. 62.14, shall be performed by the Public Works Committee which shall consist of two (2) Alderpersons and five (5) citizen members.

### **(3) Powers and Duties**

The Public Works Committee shall have the following powers and duties:

- (a) The statutory powers and duties of the Board of Public Works as prescribed in Wis. Stat. s. 62.14.
- (b) Except as provided for in Section 2.32 of this Code, the charge and management of the municipal utilities, pursuant to the provisions of Wis. Stat. s. 66.0805(6). The Committee shall supervise the operation of the utilities under the general control and supervision of the Common Council and subject to the provision of the Wisconsin Statutes.

## **2.10 BOARD OF PARK, RECREATION AND FORESTRY COMMISSIONERS**

### **(1) How Constituted**

The Board of Park, Recreation and Forestry Commissioners of the City of Middleton shall consist of eight (8) members, including one (1) Alderperson, six (6) citizens, and one (1) high school student.

### **(2) Powers and Duties**

The Board of Park, Recreation and Forestry Commissioners shall have the following powers and duties:

- (a) To govern, control, maintain and improve all public parks, parkways, boulevards and pleasure drives within the City, as well as any which may be owned or from time to time acquired outside the corporate limits of the City, except those lands designated as

conservancy under section 21.03(1) of this Code, Wis. Stat. s. 27.08, and to adopt and enforce rules and regulations to promote those purposes as described in Chapter 21 of this Code and Wis. Stat. s. 27.14.

- (b) To provide, conduct and supervise public playgrounds, playfields, indoor recreation centers and other recreation areas and facilities owned or controlled by the City, to have the power to conduct any form of recreational or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner, and may conduct such activities on properties under its control, on public properties with the consent of the authorities thereof, and on private properties with the consent of the owners.
- (c) To have general supervision over the planting, trimming, spraying, protection and removal of all trees and shrubs in the City, except in lands designated as conservancy pursuant to section 21.03(1) of this code such supervision shall occur only for the purpose of addressing issues relating to the protection of the health or safety of the public or trees or shrubs located within or outside the boundaries of such lands. The Board shall also have general supervision of the activities of the Director of Parks and Recreation as they relate to the powers and duties of the Board.
- (d) The Board shall have the power to remove or cause the removal of any dead, diseased, infested, or structurally damaged tree, or portion of tree on private property when such tree constitutes a potential hazard to life and property within the right-of-way or on public property or constitutes a threat to the urban forest.
- (e) The powers and duties in paragraphs (a), (b), and (c) above shall be construed as relating to planning and policy decisions, and ensuring the level of maintenance of the parks and recreational facilities, relating to the matters expressly stated in these paragraphs and shall not be construed as giving the Board of Park, Recreation and Forestry Commissioners control over the employees, equipment or budgetary matters except in an advisory sense or where otherwise provided by the Common Council.

### **(3) Dedication of Property for Park and Recreation Purposes**

The Common Council shall accept all property given or dedicated to the City for park, recreational or forestry purposes only after such gift or dedication shall have first been referred to the Board and its recommendation considered by the Common Council. Failure of the Board to make such recommendation within thirty (30) days after referral shall permit the Common Council to accept or reject any gift or dedication without recommendation.

### **(4) City Forester**

The City Forester shall be appointed by the Mayor subject to confirmation by the Common Council, on the third Tuesday of April for a two (2) year term, commencing on the first day of May following his or her appointment. The City Forester shall have the powers and duties prescribed in Wis. Stat. s. 27.09 as well as those described in Chapter 20 of this code subject to the supervision and authority of the Director of Parks and Recreation to whom he or she shall be directly responsible for all activities on public lands.

## **2.11 LIBRARY BOARD**

### **(1) How Constituted**

The Library Board of the City shall consist of nine (9) members, as follows: eight (8) citizen members and one (1) school administrator, or his or her representative, in accordance with Wis. Stat. s. 43.54(1)(c). Not more than one (1) member of the Common Council shall at any one time be a member of the Library Board.

### **(2) Appointment**

The members shall be appointed by the Mayor, subject to confirmation by the Common Council, to hold office for a period of three (3) years. Three (3) members shall be appointed annually on the third Tuesday in April for a three (3) year term, commencing on the first day of July following their

appointment.

### **(3) Organization of Board**

The Library Board shall organize within thirty (30) days after the time designated for the beginning of terms. Thereupon, the Library Board shall elect a president and such other officers as it deems necessary.

### **(4) Powers and Duties**

The Library Board shall have the powers and duties prescribed by Wis. Stat. ss. 43.58 and 43.60.

## **2.12 COMMUNITY DEVELOPMENT AUTHORITY**

- (1)** Created. Community Development Authority is hereby created pursuant to Wis. Stat. 66.1335. The Community Development Authority shall have all powers and authorities vested to it in the statute. The Common Council elects not to grant to the Community Development Authority the optional powers of the Plan Commission pursuant to Wis. Stat. 66.1335.
- (2)** Appointment. The members shall be appointed by the Mayor, subject to confirmation by the Common Council, to hold office for a period of four (4) years. Members shall be residents having sufficient ability and experience in the fields of urban renewal and community development. Two (2) of the commissioners shall be alder persons and shall serve during their term of office as members of the Common Council. The first appointment of the five non-Council members shall be for the following terms: two (2) for one year and one each for terms of two (2), three (3) and four (4) years. Thereafter the terms of non Council members shall be four (4) years and until their successors are appointed and qualified.
- (3)** By adoption of this ordinance the Common Council has declared that there exists in the City of Middleton the need for blight elimination, slum clearance, urban renewal and community development programs and projects and housing projects in the City.
- (4)** The Community Development Authority shall not exercise the powers of a Housing Authority, as the City has assigned its Housing Authority powers to the Dane County Housing Authority.

## **2.13 EMERGENCY GOVERNMENT COMMISSION; EMERGENCY GOVERNMENT DIRECTOR** See section 4.05 of this Code.

## **2.14 COMMISSION ON YOUTH**

### **(1) How Constituted**

The Commission on Youth shall consist of at least six (6) citizen members and one (1) Alderperson. Committee members shall include, whenever feasible, at least two (2) persons who are eighteen (18) years of age or younger, one (1) school teacher, one (1) Alderperson and at least three (3) citizens at large. (O1437, 4/18/17)

### **(2) Powers and Duties**

The Commission shall have the responsibility of studying the needs of the youth citizens in the Middleton community, shall from time to time make recommendations on effective ways to solve the problems faced by the young, and shall bring to the attention of the Common Council any special programs needed to aid the young people of the City. (O1437, 4/18/17)

## **2.15 PLEASANT VIEW GOLF COURSE ADVISORY COMMITTEE**

### **(1) How Constituted**

The Pleasant View Golf Course Advisory Committee shall consist of seven (7) members, six (6) of whom shall be citizen members and one (1) of whom shall be an Alderperson. O1552 7/6/2021

## **(2) Operations**

The Committee shall meet with the Golf Course Manager at least semi-annually to review golf course operations and financial matters and to discuss golf course improvements and other business. The City Administrator and City staff shall provide information to the Committee regarding the planning, development and operation of Pleasant View Golf Course.

## **(3) Objectives and Powers**

The Committee shall advise the City Administrator and the Common Council with regard to planning, development and operation of the golf course within budgetary guidelines and legal requirements. The Committee shall annually prepare, with the assistance of the City Administrator, a recommended operating budget for the golf course. The Finance Director shall submit reports of all income and operating expenses to the City Council no less than quarterly, including a statement regarding the overall condition of the Pleasant View Golf Course property.

## **2.16 CONSERVANCY LANDS COMMITTEE**

### **(1) How Constituted**

The Conservancy Lands Committee of the City of Middleton shall consist of eight (8) members, as follows:

- (a) Chair of the Board of Park, Recreation and Forestry Commission, or a Commissioner appointed by the Chair and who shall serve at his or her pleasure as long as that individual serves as Chair of the Board of Park, Recreation, and Forestry Commission..
- (b) Chair of the Water Resources Management Commission, or a Commissioner appointed by the Chair and who shall serve at his or her pleasure as long as that individual serves as Chair of the Water Resources Management Commission.
- (c) Chair of the Public Works Committee, or a member of that Committee appointed by the Chair and who shall serve at his or her pleasure as long as that individual serves as Chair of the Public Works Committee.
- (d) One Alderperson member.
- (e) Three citizen members, one of whom shall possess expertise in engineering or land conservation, if available, and one of whom shall be selected for his or her concern and ability to work in attaining land conservation objectives in the public interest.
- (f) One high school student.

### **(2) Objectives and Powers**

- (a) To further the City's interest in management of its community forests, fields and wetlands for conservation purposes pursuant to Wis. Stats. §28.20, and subject to the limitations set forth herein, the Committee shall govern, maintain, improve and be responsible for studying all land conservation issues affecting all City of Middleton lands designated as conservancy under Section 21. 03 of this Code. It shall plan and implement programs designed to restore and develop such land so as to accomplish ecological restoration and natural scenic beauty as well as opportunities for education and recreation for the residents of the City. It shall also recommend, to the Common Council adoption of ordinances to further the above goals, as well as to further the general health, safety and welfare of the public. The Committee shall have general supervision over the planting, trimming, spraying, protection and removal of all trees, shrubs, plants, and grasses for conservation purposes except where the Board of Park, Recreation and Forestry Commissioners acts or intervenes pursuant to its authority under section 2.10(3)(c) of this code. The Committee shall also have general supervision over the activities of the Director of Parks and Recreation as they relate to the objectives and powers of the Committee. The Committee shall have the use of the facilities of the Public Works and the Planning Office of the City and may appoint sub-committees to carry out technical studies and projects, provided that such sub-committee appointments are first submitted

to and approved by the Mayor. The Committee may propose to the Common Council an annual budget to cover anticipated expenses required to fulfill its objectives. It will also consult with similar bodies from neighboring cities, towns, and the county to develop a regional response to issues concerning land conservation.

- (b) The objectives and duties in paragraph (a) shall be construed as relating to planning and policy decisions relating to matters expressly stated therein and shall not be construed as giving the Committee control over any employees, equipment or budgetary matters except in an advisory sense or where otherwise provided by the Common Council.

## **2.17 MUNICIPAL COURT**

### **(1) Established**

Pursuant to the authority granted by Wis. Stat. Chapter 755 there is hereby established a Municipal Court for the City of Middleton.

### **(2) Office of Municipal Judge Created**

Pursuant to the authority granted by Wis. Stat. Chapter 755 there is hereby created the office of Municipal Judge for the Municipal Court for the City of Middleton. The Municipal Judge shall be a resident of the City of Middleton and shall be licensed to practice law in the State of Wisconsin.

### **(3) Election; Term**

The Municipal Judge shall be elected at large at the spring election on the even-numbered years for a term of four (4) years commencing on May 1 succeeding the election, as provided by Wis. Stat. s. 755.02. The Municipal Judge shall be subject to the Wisconsin Code of Judicial Ethics and shall file an annual financial statement.

### **(4) Salary**

The salary of the Municipal Judge is as set forth in Section 2.02 of this code and may be increased before the start of a second or subsequent year of service of the term of the Judge, but the salary shall not be decreased during the term of the Judge. The salary shall be determined by contract between the municipality and the Judge. Salaries may be paid annually or in equal installments as determined by the Common Council, but no Judge may be paid a salary for that portion of any term during which portion the Judge has not executed and filed the official bond and official oath as required by Wis. Stat. s. 755.03, and filed the same under Wis. Stat. s. 19.01(4)(c), as amended. The Municipal Judge may not serve until the contract is entered into, and no Municipal Judge may be compensated for any time during the term which the Municipal Judge has not executed and filed his or her official bond and official oath, as required by Wis. Stat. s. 755.03.

### **(5) Bond; Oath**

The Municipal Judge shall execute and file with the Clerk of the Circuit Court for Dane County the oath prescribed in Wis. Stat. s. 755.03, and an official bond in the amount of \$2,000.00 or in such amount as shall be fixed by the Common Council. The City shall pay the costs of the bond.

### **(6) Procedure in Municipal Court**

- (a) The procedure in Municipal Court for the City of Middleton shall be as provided in this section and state law, including, but not by way of limitation, Wis. Stat. Chapters 62, 66, 755 and 800.
- (b) The Municipal Court shall be open as determined by the Municipal Judge and approved by the Common Council.
- (c) The Municipal Judge shall keep his or her office and hold court in the City of Middleton Municipal Court facilities, which shall be located in an area separate from the City of Middleton Police Department by design or signage.
- (d) If the Municipal Judge is temporarily absent, sick or disabled, the provisions of Wis. Stat. s. 800.06(1) shall apply, and if the Municipal Judge becomes incompetent, unable or fails to act, or in the event of a vacancy, the provisions of Wis. Stat. s. 800.06(2) shall apply.

Any substitute Municipal Judge designated or assigned hereunder shall be compensated as determined by contract between the City and the Municipal Judge pursuant to Wis. Stat. ss.755.04 and 800.065(3). The Municipal Judge shall satisfy all continuing education requirements for Municipal Judges.

- (e) Upon the proper and timely written request for substitution or disqualification of the Municipal Judge, the provisions of Wis. Stat. s 800.05 shall apply.
- (f) The procedures of the Municipal Court shall be in accord with the applicable Wisconsin Statutes and City Ordinances. The Court shall abide by the Wisconsin Rules of Evidence and shall abide by the Uniform State Traffic Deposit Schedule, as required by Wis. Stat. ss. 345.26 and 800.037. In non-traffic matters, the Municipal Judge shall draft a bond schedule, which shall become effective upon approval by the Common Council. No bond shall exceed the maximum penalty established by the Common Council for the offense, plus costs, fees, and surcharges imposed under Wis. Stat. Chapter 814.

### **(7) Fees**

- (a) Bonds for appearance, partial payments and other funds collected by the Court shall be treated as escrow funds and deposited with the City Clerk-Treasurer.
- (b) The Municipal Court shall collect all forfeitures, fees, surcharges, and costs in any action or proceeding before the court and shall report and pay over such moneys to the City Clerk-Treasurer within 30 days after receipt of such moneys by the Municipal Court, as provided under Wis. Stat. s. 800.10(2). At the time of payment, the Municipal Court shall report to the City-Clerk Treasurer the title of the action, the offense for which the forfeiture was imposed and the total amount of the forfeiture, fees, penalty assessments and costs, if any. The City Clerk-Treasurer shall disburse the fees as provided in Wis. Stat. Chapter 814, and disburse any penalty assessments pursuant to Wis. Stat. s. 66.0114(3)(b).

### **(8) Board May Abolish Municipal Court**

The Common Council may, by ordinance or by law, abolish the Municipal Court at the end of any term for which the Judge has been elected.

### **(9) Statutes Adopted by Reference**

Wis. Stat. Chapters 755 and 800 are hereby adopted by reference.

### **(10) Contempt of Court**

- (a) The Municipal Judge may punish for contempt of Municipal Court for any such persons guilty of any of the following acts:
  - 1. Intentional misconduct in the presence of the court which interferes with a court proceeding or with the administration of justice, or which impairs the due respect for the Court.
  - 2. Refusal of a witness to appear without excuse.
- (b) No person may be punished for contempt before a Municipal Judge until an opportunity has been given the person to be heard in his or her defense. If the contempt alleged involves disrespect or criticism of a Municipal Judge, that judge is disqualified from presiding at the trial of contempt unless the person charged consents to the judge presiding at the trial. For the purpose of hearing a persons defense, the Municipal Judge may, if the defendant does not appear for trial, issue a warrant for the person to be brought before the Municipal Judge.
- (c) The Municipal Judge may impose a forfeiture in an amount not to exceed \$200 for a contempt of court.
- (d) For a contempt of court described in Section 2.17(10)(a)1, the Municipal Judge may impose imprisonment in the county jail for not more than 7 days and impose a forfeiture, as provided under Wis. Stat. s. 800.12(3).



- (e) For a contempt of court described in Section 2.17(10)(a)2, the Municipal Judge may do any of the following, pursuant to Wis. Stat. s. 800.12(4):
  1. Issue a warrant and bring the witness before the court for the contempt and to testify.
  2. In addition to ordering witness to pay a forfeiture, the judge may order the witness to pay all costs of the witness's apprehension.

### **(11) Duties**

- (a) Accepts citations and complaints;
- (b) Reply to departmental mail concerning routine matters as prescribed by the Municipal Judge;
- (c) Assign docket numbers to citations and complaints, type the docket sheets and gather all material pertinent to cases;
- (d) Determine and schedule court dates and facilities;
- (e) Communicate with law officers, attorneys and defendants regarding court proceedings;
- (f) Balance dockets at the conclusion of court proceedings;
- (g) Prepare and mail warrants and summons;
- (h) Prepare monthly report of financial activities;
- (i) Assist in the collection of traffic bonds;
- (j) Prepare necessary communications for jury trials and transfers to Circuit Court;
- (k) Perform such other duties as may be required by the Municipal Judge and Common Council.
- (l) All required or necessary physical record keeping and audit services.

### **(12) Dispositional Authority of Municipal Court**

Pursuant to the authority granted by Wis. Stat. 938.17(2) the Municipal Court is granted the authority to utilize the dispositional alternatives allowed to it in Wis. Stat. 938.343 and 948.344, except that the court shall not utilize the dispositional alternative of ordering alcohol or other drug assessment and treatment as provided in Wis. Stat. 938.343(10) or 938.344(2g)(a).

**(13)** For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the Court under Sections 938.343 or 938.344, Wisconsin Statutes, the Municipal Court is authorized to impose any of the sanctions listed in Section 938.355(6)(d), Wisconsin Statutes, in accordance with the provisions of those statutes.

## **2.18 AIRPORT COMMISSION**

- (1) The airport commission shall consist of seven (7) members. Two (2) members shall be alderpersons. Five (5) members shall be citizen members. *O1552 7/6/2021*
- (2) The City Administrator and members of his/her staff shall provide information to the commission regarding the planning, development and operation of airport facilities. The commission may call upon the administrator to provide such staff assistance as may be required to carry out its functions. The Commission shall, in cooperation with the City Administrator, establish an airport accounting system of sufficient detail to enable the Commission to accurately recommend rates and charges, eliminate inefficient operations and maintenance practices, and accomplish sound financial planning.
- (3) The commission shall advise the administrator and the common council with regard to planning, development and operation of the airport within budgetary guidelines and legal requirements. The administrator shall submit a quarterly report of all income and operating expenses to the city council, including a statement regarding the overall condition of airport properties. The commission shall annually prepare, with the assistance of the city administrator, a recommended operating budget for the airport and submit it to the mayor for his/her use in preparation of the municipal budget.

- (4) The commission may authorize such real property leases as it determines to be in the best interest of the City of Middleton, providing that further approval by the City Council shall be required for all leases. The Commission and the Manager shall meet at least semi-annually at the airport to review airport operations and financial matters and to discuss airport development and other business.
- (5) The Commission shall recommend for adoption regulations and fees or charges for the use of the Airport not inconsistent with this Ordinance. Such regulations, fees, and charges will become effective when approved by the City Council.
- (6) The Commission shall make studies and conduct surveys as appropriate to assist in improving the operation of the Airport. It shall cooperate with the Wisconsin Bureau of Aeronautics and the Federal Aviation Administration in airport and system planning functions and other activities.
- (7) The Commission shall cooperate with, and receive the cooperation of, all municipal departments providing services or assistance to the airport.

## **2.19 EMERGENCY MEDICAL SERVICES COMMISSION**

### **1) How Constituted**

The Emergency Medical Services Commission shall consist of seven (6) members, as follows:

- (a) One (1) Alderperson.
- (b) The Medical Director of the Emergency Medical Service.
- (c) One (1) representative of the Town of Middleton.
- (d) One (1) representative of the Town of Springfield.
- (e) One (1) citizen member from the City of Middleton.
- (f) One (1) full time paramedic staff person.

### **(2) Appointment; Term**

Appointments shall occur as provided in Section 2.03(5) except as follows:

- (a) The Town of Middleton and Town of Springfield members shall be appointed annually by the Town Board Chairperson on the third Tuesday of April in each year for a one (1) year term, commencing on the first day of May following appointment.
- (b) The full time paramedic staff representative shall be appointed by the Mayor, with consideration of the recommendation of the EMS Chief. This representative will have no voting authority regarding budgetary matters and shall be appointed on the third Tuesday in April for a two (2) year term.

### **(3) Objectives and Powers**

The Commission shall review and recommend an annual budget to the Common Council to cover anticipated expenses required to fulfill the objectives of the City Of Middleton EMS. The Committee will also consult with Emergency Medical Service oversight bodies from neighboring communities and the County to develop a regional response to issues concerning the Emergency Medical Service. The Commission shall be responsible for recommending to the Common Council for approval the standard of care and general policies under which the EMS shall operate.

## **2.20 GENERAL PROVISIONS GOVERNING ALL CITY OFFICERS**

### **(1) Effect**

The provisions of this section shall apply to all officers of the City, regardless of the time of creation of the office or selection of the officer unless otherwise specifically provided by ordinance or resolution of the Common Council.

### **(2) Oath of Office**

Every officer of the City, including members of City boards and commissions, shall before entering upon his or her duties and within five (5) days of his or her election or appointment or notice thereof take the oath of office prescribed by law and file said oath in the office of the City Clerk, except the City

Clerk, who shall file his oath in the office of the Mayor; provided that the Municipal Judge shall take his or her official oath within ten (10) days after his or her election and file it with the Clerk of the Circuit Court. Any person reelected or reappointed to the same office shall take and file an official oath for each term of service.

### **(3) Bond**

Every officer shall, if required by law or the Common Council, upon entering the duties of her or his office, give a bond in such amount as may be determined by the Common Council with such sureties as are approved by the Common Council, conditioned upon the faithful performance of the duties of the office. Official bonds shall be filed as are oaths as provided in subsection (2) of this section.

### **(4) Compensation**

All officers of the City shall receive such salaries as may be provided from time to time by the Common Council.

### **(5) Vacancies**

Vacancies in elective officers shall be filled by appointment by a majority vote of the Common Council for a term which expires on the third Tuesday in April next following such appointment. Vacancies in appointive offices shall be filled in the same manner as the original appointment for the remainder of the unexpired term or for an indefinite term, where no definite term is provided by ordinance.

### **(6) Code of Ethics**

#### **(a) Statement of Purpose**

- (1) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that the public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established in this Chapter a Code of Ethics for all City of Middleton officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the City, as well as any individuals who are candidates for elective office as soon as such individuals file nomination papers with the City.
- (2) The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City of Middleton and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City. The Common Council believes that a Code of Ethics for the guidance of elected and appointed officials and employees will help them avoid conflicts between their personal interests and their public responsibilities, will improve standards of public service and will promote and strengthen the faith and confidence of the citizens of this City in their elected and appointed officials and employees. The Common Council hereby reaffirms that each elected and appointed City official and employee holds his or her position as a public trust and any intentional effort to realize substantial personal gain through official conduct is a violation of that trust. The provisions and purpose of this Ethics Code and such roles and regulations as may be established are hereby declared to be in the best interests of the City of Middleton.

(b) Definitions

- (1) Public Official. Means those persons serving in statutory elected or appointed offices provided for in Chapter 62 of the Wisconsin Statutes and all members appointed to boards, committees and commissions established or appointed by the Mayor and/or Common Council pursuant to this Code of Ordinances, whether paid or unpaid.
- (2) Public Employee. Means any person excluded from the definition of a public official who is employed by the City.
- (3) Anything of Value. Means any gift, favor, loan, service or promise of future employment, but does not include reasonable fees and honorariums, or the exchange of seasonal, anniversary or customary gifts among relatives and friends.
- (4) Business. Means any corporation, partnership, proprietorship, firm, enterprise, franchise or here, association, organization, self-employed individual or any other legal entity which engages in profit making activities.
- (5) Personal Interest. Means the following specific blood or marriage relationships:
  - (a) A person's spouse, mother, father, child, brother or sister; or
  - (b) A person's relative by blood or marriage who receives, directly or indirectly, more than one-half (1/2) support from such person or from whom such person receives, directly or indirectly, more than one-half (1/2) of his or her support.
- (6) Significant Interest. Means owning or controlling, directly or indirectly, at least ten percent (10%) or Five Thousand Dollars (\$5,000.00) of the outstanding stock of any business.
- (7) Financial interest. Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

(c) Statutory Standards of Conduct

- (1) Sec. 946.10 Bribery of Public Officers and Employees
- (2) Sec. 946.11 Special Privileges from Public Utilities
- (3) Sec. 946.12 Misconduct in Public Office
- (4) Sec. 946.13 Private Interest in Public Contract Prohibited

(d) Responsibility of Public Office

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and carry out impartially the laws of the nation, state and municipality, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

(e) Dedicated Service

- (1) Officials and employees should adhere to the roles of work and performance established as the standard for their positions by the appropriate authority.
- (2) Officials and employees should not exceed their authority or breach the law or ask others to do so and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality for their work.
- (3) Members of the City staff are expected to follow their appropriate professional code of ethics.

(f) Fair and Equal Treatment

- (1) Use of public property. No official or employee shall use or permit the unauthorized use of City owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as City policy for the use of such official or employee in the conduct of official business, as authorized by the Common Council or authorizes board, commission or committee.
- (2) Obligations to Citizens. No official or employee shall grant any special consideration, treatment or advantage to anyone beyond that which is available to every other person. No official or employee shall use or attempt to use his or her position with the City to secure any advantage, preference or gain, over and above his or her rightful remuneration and benefits, for him or herself or for a member of his or her immediate family.
- (3) Political Contributions. No official shall personally solicit from any City employee, other than an elected official, a contribution to a political campaign or committee for which the person subject to this Chapter is a candidate or treasurer.

(g) Conflict of Interest

(1) Financial and Personal Interest Prohibited

- (a) No official or employee of the City, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provision of this Chapter or which would tend to impair independence of judgment or action in the performance of official duties.
- (b) Any member of the Common Council who has a financial or personal interest in any proposed legislation before the Common Council shall disclose on the records of the Common Council shall disclose on the records of the Common Council the nature and extent of such interest; such official shall not participate in debate or vote for adoption or defeat of such legislation. If the matter before the Council involves a member's personal interest with persons involved, the member may participate in debate or discussion and vote on the matter following disclosure, unless an ordinance or contract is involved; if an ordinance or contract is involved, such official shall not participate in debate or discussion and vote on the matter.
- (c) Any non-elected official, other than a City employee, who has a financial interest or personal interest in any proposed legislative action of the Common Council or any board, commission or committee upon which the official has any influence or input or of which the official is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Common Council or the appropriate board, commission or committee the nature and extent of such interest. Such official shall not participate in debate or discussion or vote for adoption or defeat of such legislation.
- (d) Any City employee who has a financial interest or personal interest in any proposed legislative action or the Common Council or any board, commission or committee upon which the employee has any influence of input, or of which the employee is a member, that is a make to recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the Common Council or the appropriate board, commission or committee the nature and extent of such interest.

- (2) Disclosure of Confidential Information  
No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall such information be used to advance the financial or other private interests of the official or employee or others.
- (3) Gifts and Favors
- (a) No official or employee, personally or through a member of his or her immediate family, may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could be expected to influence the employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.
- (b) No official or employee personally or through a member of his or her immediate family, shall accept any gift, whether in the form of money, service, loan, thing or promise, from any person which may tend to impair his or her independence of judgment or action in the performance of his or her duties or grant in the discharge of his or her duties any improper favor, service or thing of value. However, it is not a conflict of interest for any public official or employee to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value such as a meal and that is not intended to influence the official. Any official or employee who receives, directly or indirectly, any gift or gifts from any person who is known by said official or employee to be interested, directly or indirectly, in any manner whatsoever in business dealings with the City upon which the official or employee has any influence or input or over which the official or employee has any jurisdiction, discretion or control shall disclose the nature and value of such gifts to the Common Council by January 15 next following the year in which the gift or gifts are received.
- (c) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a City official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.
- (d) Gifts received by an official or employee or his or her immediate family under unusual circumstances shall be referred to the Common Council within ten (10) days of receipt for recommended disposition. Any person subject to this Chapter who becomes aware that he is or has been offered any gift, the acceptance of which would constitute a violation of this Subsection, shall, within ten (10) days, disclose the details surrounding said offer to the Common Council. Failure to comply with this reporting requirement shall constitute an offense under this Chapter.
- (e) Representing Private Interest Before City Agencies or Courts.  
(1) Non-elected City officials and employees shall not appear on behalf of any private person (other than him or herself or spouse or minor children) before any City agency, board, commission or the Common Council if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation.  
(2) Elected City officials may appear before City agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations. However, in disclosure

requirements of Subsection (a) above shall be applicable to such appearances.

(4) Ad Hoc Committee Exceptions

No violation of the conflict of interest restrictions of this Section shall exist, however, where an individual serves on a special ad hoc committee charged with the narrow responsibility of addressing a specific issue or topic in which that individual, or the employer or a client of that individual, has an interest so long as the individual discloses to the Common Council that such interest exists.

(5) Contracts with the City

No City official or employee who, in his or her capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion on his or her part shall enter into any contract with the City unless, within the confines of Sec. 946.13, Wis. Stats.

(a) The contract is awarded through a process of public notice and competitive bidding or the Common Council waives the requirement of this Section after determining that it is in the best interest of the City to do so.

(b) The provisions of this Subsection shall not apply to the designation of a public depository of public funds.

(h) Advisory Opinions

Any questions as to the interpretation of any provisions of this Code of Ethics Chapter shall be referred to the City Attorney. Such requests shall be as detailed as possible and shall be made in writing. Advisory requests and opinions shall be kept confidential, except when disclosure is authorized by the requestor, in which case the request and opinion may be made public.

(i) Hiring Relatives

(1) This Section governs the proposed hiring of individuals for regular full-time or part-time work as City employees who are members of the immediate family of City employees or elected officials. Excluded from the provisions of this Section are seasonal or temporary employees. "Immediate family" includes those relatives by blood or marriage defined in Section 2.20(6)(2)(e) as personal interests.

(2) Hiring an immediate family member of any current City employee or elected City official is discouraged and will be considered only if that individual has the knowledge and skills, experience or other job related qualifications that warrant consideration for the position. It is required that either the current employee or the relative seeking employment will make the personal interest relationship known to the hiring authority (department head, City board or commission or Common Council) before a hiring decision is made; in every case, the decision to hire an immediate family member or former spouse will be subject to Common Council approval, with notice, before the new employee is permitted to begin work. Marriage between two (2) individuals already employed by the City or their relatives will not be considered a violation of this policy.

(3) This Section does not apply to non-elected officials who are asked to accept appointment as members of the City board, commission or committee; non-elected officials, however, will be expected to disqualify themselves from participation in matters under consideration which may affect the hiring, retention, classification or compensation of their immediate family if currently employed or being considered for employment by the City.

(j) Sanctions

A determination that an employee's actions constitute improper conduct under the provisions of this Chapter may constitute a cause of suspension, removal from office or employment or other disciplinary action. Sanctions, including any disciplinary action that

may affect employees covered under a labor agreement will be consistent with the terms and conditions set forth in the applicable labor agreement.

The City of Middleton, pursuant to Wis. Stat. s. 40.21, elects to include eligible City personnel under the provisions of the Wisconsin Retirement Fund in accordance with the terms thereof. Election is made to provide prior service credits at rates equal to two (2) times the rate of municipality credits for current service, to be applicable to employees as defined by Wis. Stat. s. 40.21 who were employed by the City of Middleton on the effective date of January 1, 1948. (Charter Ordinance Adopted September 9, 1947).

## **2.22 ELECTIONS**

### **(1) Nomination of Elective Officers**

- (a) Circulation and Filing. The nomination of all City Officers whose office is now or may hereafter be filled by election by the electors of the City of Middleton shall be made by the circulation and filing of nomination papers as prescribed by Wis. Stat. Chapter 5.
- (b) Time for filing. Nomination papers for all offices to be filled at the spring election to be held on the first Tuesday in April in each year shall be filed not later than 5:00 P.M. on the first Tuesday in January immediately preceding the April election for which such nomination papers are filed.

### **(2) Registration**

- (a) Clerk's Duties. The Clerk of the City of Middleton shall have charge and control of the registration of electors, and the Clerk and his or her assistants are authorized to execute such affidavits as may be required by the Wisconsin Statutes.
- (b) Non-Registered Voters. No elector shall be permitted to vote at any election held in the City of Middleton unless such elector is registered as prescribed by the Wisconsin Statutes, except as provided in Wis. Stat. s. 6.44.

### **(3) Primary for City Elections**

A primary election shall be held in any election district in the City of Middleton for the nomination of candidates for city office whenever three (3) or more candidates file nomination papers for a city office to be filled at the general city election. Such primary shall be held four (4) weeks before the election for which such primary is held and the ballot used at every such primary and the conduct of such primary shall be in accordance with the provisions of Wis. Stat. ss. 5.04, 5.05(8)(c), 5.22, 5.23, and 5.25. (Charter Ordinance adopted December 26, 1963).

### **(4) Election Officials**

- (a) Compensation. Election officials shall receive such compensation as shall from time to time be fixed by the Common Council, as provided by Wis. Stat. s. 6.325.
- (b) Tabulators. The City Clerk is authorized to select tabulators who shall assist and be under the direction of election inspectors after the close of the polls, if required. The compensation of tabulators shall be determined and paid in the same manner as prescribed for election officials under subsection (b) above.
- (c) Relatives Shall Not Serve. No person shall serve as an election official or tabulator at any election in which his or her relative (husband, wife, lineal issue, lineal ancestor, brother, sister, issue of a brother or sister, wife or widow of a son, husband or widower of a daughter, brother or sister of a father or mother, son or daughter of a brother or sister of the father or mother) appears on the ballot as a candidate.

### **(5) Opening and Closing of Polls**

The polling places for all official general elections in the City of Middleton, whether a general election, primary election or special election, shall be opened at 7:00 in the morning and closed at 8:00 in the evening on election days, provided, however, that any elector waiting his or her turn to vote, whether



within the polling booth or in the line outside of the booth at the time of the closing of the polls, shall be permitted to vote.

## **2.23 PUBLIC RECORDS**

### **(1) Definitions**

- (a) "Authority" means any of the following City entities having custody of a City record: an office, elected official, agency, board, commission, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- (b) "Custodian" means that officer, department head, division head, or employee of the City designated under subsection (3) or otherwise responsible by law to keep and preserve any City records on file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.
- (c) "Record" means any material on which is written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of the physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes, (including computer tapes and disks and files), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working, materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent, or bequest; and published materials in the possession of any authority other than a public library which are available for sale, or which are available for inspection at a public library.

### **(2) Duty to Maintain Records**

- (a) Except as provided under subsection (7), each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.
- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody. If a vacancy occurs before a successor is selected or qualified, such records shall be delivered to the Clerk, on behalf of the successor, to be delivered to such successor.

### **(3) Legal Custodian**

- (a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.
- (b) Unless otherwise prohibited by law, the City Clerk or the Clerk's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council.
- (c) For every authority not specified in subsections (a) or (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.
- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.

- (e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subchapter 11 of Wis. Stat. Chapter 19 and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

#### **(4) Public Access to Records**

- (a) Except as provided in subsection (6) hereof, any person has a right to inspect a record and to make or receive a copy of any record as provided in Wis. Stat. s. 19.35(1).
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept the records will be available for inspection and copying upon at least 48 hours advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (f) A requester shall be charged a fee to defray the cost of locating, photocopying, reproducing and delivering public records. No charge shall be made for locating records unless the actual, direct and necessary cost exceeds \$50. A cash deposit may be requested where charges are estimated to exceed \$5.00. No elected or appointed official or employee of the City of Middleton shall be required to pay for public records reasonably required for the proper performance of their duties. Charges may be waived in the custodians discretion if it is determined to be in the public interest. Charges authorized in this subsection shall be in an amount set forth in the Fee Schedule under Section 3.12.
- (g) Pursuant to Wis. Stat. s. 19.34 and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at all its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. Each authority shall also prominently display at its offices, for the guidance of the public, a copy of Wis. Stat. ss. 19.31 to 19.39. This subsection does not apply to members of the Common Council.

#### **(5) Access Procedures**

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wis. Stat. s. 19.37. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under subsection (4)(f)6. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

- (c) A request for a record may be denied as provided in subsection (6) if a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wis. Stat. s. 19.37(1), or upon application to the Attorney General or a District Attorney.

## **(6) Limitations on Right of Access**

- (a) As provided in Wis. Stat. s. 19.36, the following records are exempt from inspection under this section:
1. Records specifically exempted from disclosure by State or Federal law or authorized to be exempted from disclosure by state law.
  2. Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the State.
  3. Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and
  4. A record or any portion of a record containing information qualifying as a common law trade secret.
- (b) As provided by Wis. Stat. s. 43.30, public library circulation records are exempt from inspection under this section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request, in whole or in part, only if she or he determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
1. Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
  2. Records of current deliberations after a quasi-judicial hearing.
  3. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
  4. Records concerning strategy for crime detection or prevention.
  5. Records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require non-disclosure.
  6. Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
  7. Communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Wis. Stat. s. 905.03.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such

record and shall follow the guidance of the City Attorney when separating out the exempt material. If in the judgment of the custodian and the City Attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

## **(7) Destruction of Records**

- (a) City Officers may destroy or cause to be destroyed the following non-utility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the Bureau of Municipal Audit or an auditor licensed under Wis. Stat. Chapter 442, but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Wis. Stat. s. 16.61(3)(e), and then after such shorter period. Examples of records which may be destroyed include:
1. Bank statements
  2. Canceled checks
  3. Receipt Forms
  4. Vouchers, etc.
- (b) City officers may destroy or cause to be destroyed the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the Bureau of Municipal Audit or an auditor licensed under Wis. Stat. Chapter 442, subject to Public Service Commission of Wisconsin regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Wis. Stat. s. 16.61(3)(e), and then after such shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed after two years. Examples of records that may be destroyed include:
1. Contracts
  2. Excavation permits
  3. Inspection records
- (c) City officers may destroy or cause to be destroyed the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless a shorter period has been set by Statute, and then after such period, or unless a shorter period has been fixed by the State Public Records and Forms Board pursuant to Wis. Stat. s. 16.61(3)(e), and then after such shorter period. Examples of records which may be destroyed include:
1. Old insurance policies
  2. Election notices
  3. Cancelled registration cards
- (d) Unless notice is waived by the State Historical Society of Wisconsin, at least 60 days' notice shall be given to the State Historical Society prior to the destruction of any record as provided by Wis. Stat. s. 19.21(4)(a).
- (e) Any tape recordings of governmental meetings of the City may be destroyed, erased or reused no sooner than 90 days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.
- (f) Any audio or video tape produced by the Police Department may be destroyed, erased or reused no sooner than 120 days after it was produced, if the tape was produced in the ordinary course of department operations.

## **(8) Preservation Through Microfilm or Microfiche**

Any City officer, or the director of any department or division of the City government may, subject to the approval of the Mayor and Common Council keep and preserve public records in his or her possession

by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Wis. Stat. ss. 16.61(7)(a) and (b), and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and subsections (4) through (6) of this section.

## **2.24 PROCEDURE TO DISPOSE OF SURPLUS AND ABANDONED PROPERTY**

- (1) Unless specifically excepted from the procedure set forth herein, all personal property belonging to the City that is no longer needed for City use and all personal property which appears to be lost or abandoned, discovered by Police Officers or transferred to the Police Department by citizens, shall be disposed of as follows:

  - (a) The City Administrator shall, at least annually, require the Department heads to report regarding any surplus or abandoned personal property in their possession. Upon receiving such report, the Administrator shall cause the property to be sold at public sale to the highest bidder. Notice of the time and place of the sale of such property shall be published as a Class 3 notice in the official newspaper, and shall also be given in such manner by the Administrator as will attract probable purchasers in the most favorable market. The Administrator need not offer any property for sale if it appears the probable costs surrounding the sale exceed the value of the property. The Administrator is also authorized to have items appraised by qualified persons when deemed necessary.
  - (b) The City Administrator shall make and preserve an accurate record of any such sale, including an inventory of all property sold thereunder, the date and consideration for said sale, and the name and address of the purchaser of the property. Each such record shall be kept as a public record for at least two years from the date of sale. The proceeds of such sale shall be paid to the City Treasury after deducting the necessary expenses of keeping the property and conducting the sale.
- (2) The following classes of property shall not be subject to subsection (1) of this section:

  - (a) All unclaimed and abandoned property subject to a specific method of disposal pursuant to Wis. Stat. ss. 66.0139(3) or (5) or 968.20 shall be disposed of as set forth in said statutes.
  - (b) All unclaimed and abandoned property not otherwise referred to herein which is usable for City operations shall, having remained unclaimed in City possession for 30 days, be transferred to the City department able to use the property unless the property must be processed pursuant to Wisconsin Statutes ss. 170.07-170.11.
  - (c) All unclaimed money and other chattels shall be disposed of pursuant to Wis. Stat. ss. 170.07-170.11.
  - (d) All unclaimed and abandoned property which is subject to a currently pending investigation by the Police Department for a criminal charge resulting therefrom shall be exempt from the disposal procedures of this ordinance until the Police Department closes its case file or the statute of limitations applicable to the charge expires, whichever first occurs, unless a court of record issues an order pursuant to Wis. Stat. s. 968.20 requiring earlier release of the property.
  - (e) Property to be sold or otherwise transferred to another governmental entity, provided that any such transfer receives the prior approval of the Finance Committee before the transfer takes place.

## **2.25 CITATIONS FOR CERTAIN ORDINANCE VIOLATIONS**

### **(1) Authority to Use Citations for Certain Offenses**

The use of citations for issuance for violations of ordinances other than those for which a statutory counterpart exists is hereby authorized. In addition to the authority granted hereunder, police officers are specifically authorized hereby to issue citations for ordinance violations for which a statutory counterpart exists.

## **(2) Officials Authorized to Issue Citations for Certain Offenses**

The following Officers and Employees of the City are authorized to issue citations for the types of violations specified below:

- (a) Police Officers are authorized to issue citations for the violation of any City Ordinance. The Chief of Police may authorize any employee subject to his or her supervision or direction and not a police officer to issue violations for parking offenses under Chapter 15. (O1435, 3/21/17)
- (b) Building Inspectors are authorized to issue citations for violations of Chapters 5, 8, 10, 11, 12, 13, 14, 17, 19, 22, 23, 24 and 28 of this Code. The Building Inspector may authorize any employee subject to his or her supervision or direction to issue citations for violations of the aforementioned chapters provided such violations are not related to inspections for which certification from the State of Wisconsin is required. (O1435, 3/21/17)
- (c) Zoning Inspectors are authorized to issue citations for violations of Chapters 8, 10, 11, 12, 13, 14, 17, 19, 22, 23, and 24 of this Code.
- (d) The Weed Commissioner is authorized to issue citations for violations of Chapter 17 of this code relating to the existence and abatement of nuisance violations concerning noxious weeds.
- (e) The Director of Public Works is authorized to issue citations for violations of Chapters 8, 10, 11, 12, 13, 14, 17, 19, 21, 22, 23, and 24 of this Code.
- (f) Fire Inspectors are authorized to issue citations for violations of Chapters 5 and 15 of this Code.
- (g) The Erosion Control Officer is authorized to issue citations for violations of Chapter 28 of this Code.
- (h) The Recycling Coordinator is authorized to issue citations for violations of section 6.04 of this Code.
- (i) The Director of Parks and Recreation or any city-employed Park Ranger under their supervision is authorized to issue citations for violations of Chapter 21 of this Code. (O1518, 3/17/2020)
- (j) The Community Services Manager and Community Services Officer are authorized to issue citations for the violation of any City Ordinance. (O1507, 12/17/19)

## **(3) Contents of Citation**

The form of the citation shall contain the following information:

- (a) The name and address of the alleged violator.
- (b) The factual allegations describing the alleged violation.
- (c) The time and place of the offense.
- (d) The section of the ordinances violated.
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- (f) The time at which the alleged violator may appear in court.
- (g) A statement which in essence informs the alleged violator:
  - 1. That he or she may make a cash deposit of a specified amount within a specified time.
  - 2. That if he or she makes such a deposit, he or she need not appear in court unless subsequently summoned to do so.
  - 3. That if he or she does make a cash deposit and does not appear in court, either he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by Wis. Stat. s. 165.87 and a jail assessment imposed by Wis. Stat. s. 53.46(1), not to exceed the amount of the deposit or he will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

4. That if he or she does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against him to collect the forfeiture.
- (h) A direction that if the alleged violator elects to make a cash deposit, he or she shall sign an appropriate statement which accompanies the citation to indicate that he or she has read the statement required under subsection (g) hereof and shall send the signed statement with the cash deposit.
  - (i) Such other information as may be deemed necessary.

#### **(4) Schedule of Cash Deposits**

A schedule of the cash deposits for the violations of ordinances covered by this section follows this chapter and is incorporated herein as if fully set forth herein. The schedule of cash deposits sets forth the forfeiture portion of each deposit to which costs under Wis. Stats. § 814, including court costs of \$38.00, shall be added to determine the entire deposit.

## **2.26 TOURISM COMMISSION**

### **(1) How Constituted**

- (a) The Tourism Commission shall consist of six (6) members appointed to one-year terms. Appointment and confirmation shall be as set forth in Section 2.03(5) but members shall serve at the pleasure of the Mayor.
- (b) One (1) member shall be a representative of the Wisconsin hotel and motel industry in the City of Middleton. One (1) member shall be a member of the restaurant industry in the City of Middleton. One (1) member shall be a representative of City of Middleton tourist attractions which shall not include businesses primarily devoted to retail or City operated attractions. If a tourist attraction representative cannot be found after reasonable inquiry and effort, the Mayor may appoint a non-tourist attraction member. Industry representatives need not be residents of the City.

### **(2) Powers and Duties**

The Tourism Commission shall have the powers and duties prescribed by Wis. Stats. Sec. 66.0615.

## **2.27 COMMISSION ON AGING**

### **(1) How Constituted**

The Commission on Aging shall consist of eight citizen members and one alderperson. Committee members shall include, whenever feasible, at least six persons who are fifty-five years of age, or older.

### **(2) Powers and Duties**

The Commission on Aging shall have the responsibility of studying the needs of older adults of 55 years or older in the Middleton community. The commission shall bring to the attention of the Common Council, programs and services needed to aid older adults, and make recommendations on effective ways to solve these problems. These duties include, but are not limited to:

- (a) Preparing and recommending to the Common Council an annual budget to cover anticipated expenses and fulfillment of its objectives.
- (b) Studying, planning, implementing and updating policies and procedures for the operation of the Middleton Senior Center.
- (c) Acting as leaders in the coordination of common goals with similar agencies within the community to promote the overall well being of senior citizens in Middleton.
- (d) Creating special or ad-hoc committees to study and/or meet special needs or issues related to older adults.
- (e) Acting as an advisory authority to the Common Council in the formation and organization of all programs and services provided by the Middleton Senior Center.
- (f) Performing such other responsibilities that the commission deems reasonably necessary or that are delegated to the commission by the common council.

- (g) Recommending to the Personnel Committee the number and duties of personnel needed to provide for the management and operation of the Middleton Senior Center.

### **(3) Staff to the Commission on Aging**

The senior services director will act as staff to the commission. The senior services director and members of his/her staff shall provide any requested or needed information regarding the planning, development, and operation of the Senior Center.

## **2.28 PUBLIC SAFETY COMMITTEE**

### **(1) How Constituted**

The Public Safety Committee shall consist of seven (7) members, six (6) of whom shall be citizen members, and one (1) of whom shall be and Alderperson. *O1552 7/6/2021*

### **(2) Objectives**

The Committee shall be advisory to the Mayor and Common Council and shall have no powers or authority over Police Department operations nor shall it have any of the powers vested in the Board of Police Commissioners as stated in Middleton Ordinance 2.08, or the relevant Wisconsin Statutes cited therein. The role of the Public Safety Committee shall in no way interfere with the lawfully prescribed powers and duties of the Common Council, the Board of Police Commissioners, the Mayor, or the Chief of Police. The Committee shall:

- (a) Review service priorities and capital budget priorities of the Police Department.
- (b) Serve as liaison between the community and the City on public safety issues.
- (c) Consult with appropriate bodies from neighboring cities, towns, and Dane County to discuss and develop recommendations to address regional law enforcement issues.
- (d) Provide recommendations regarding general policies, plans and long range goals for the Police Department.

## **2.29 PUBLIC ARTS COMMITTEE**

### **(1) Powers and Duties**

The Public Arts Committee is hereby charged with creating recommendations for the Common Council regarding plans and policies to further the City of Middleton's commitment to the promotion, creation and maintenance of public art as set forth in Chapter 32 of the City of Middleton Code of Ordinances. The Public Arts Committee shall annually appoint a chairperson and any other officers it deems necessary and shall adopt rules and procedures consistent with City ordinances and state and federal law for the conduct of its business.

### **(2) How Constituted**

The Committee shall consist of ten (10) voting members as follows:

- (a) Eight (8) citizen members. Citizen members should, but are not required, to have a degree or professional background in art, architecture, real estate development, fundraising, or engineering. Citizen members are not required to be resident electors of the City if they possess one of the foregoing degrees or professional backgrounds. Otherwise citizen members shall be resident electors of the City. A majority of the Committee may not reside within a single aldermanic district. *O1478, 11/6/18*
- (b) One (1) Alderperson.
- (c) One (1) high school student.



## **2.30 SUSTAINABILITY COMMITTEE**

### **(1) How Constituted**

The Committee shall consist of ten members as follows:

- (a) Eight (8) citizen members.
- (b) One (1) Alderperson.
- (c) One high school age student.

At least three of the citizen members shall possess expertise in one or more areas of sustainability.

### **(2) Powers and Duties**

The Sustainability Committee is hereby charged with researching and developing recommendations, guidelines and policies for consideration and approval of the Common Council to take advantage of sustainability opportunities for the City of Middleton. The Committee is further tasked to identify and/or offer educational opportunities and community events which further City of Middleton residents' knowledge and practice of sustainable actions. For these purposes, sustainability is defined as the use and development of the resources of the City of Middleton to meet community needs and aspirations and best optimize the unique nature of the community without compromising the well-being of future generations.

## **2.31 PEDESTRIAN, BICYCLE AND TRANSIT COMMITTEE**

### **(1) How Constituted**

The Pedestrian, Bicycle and Transit Committee shall consist of ten members.

- (a) One member shall be a City Alderperson.
- (b) One member shall be the Plan Commission Chairperson or other Plan Commission member designated by the Plan Commission.
- (c) One member shall be the Chairperson of the Public Works Committee or other Public Works Committee member designated by the Public Works Committee.
- (d) One member shall be the Chairperson of the Committee on Aging or other member of the Committee on Aging designated by the Committee on Aging.
- (e) One member shall be a representative of the Middleton-Cross Plains School District.
- (f) Four members shall be citizen members. One member shall have transit experience and one member shall have handicap/pedestrian experience. *(O1446, 10/17/17)*
- (g) One member shall be a high school student.

### **(2) Term of Appointment**

Except for the Plan Commission, Public Works Committee and Committee on Aging members, all members shall be appointed as provided in Section 2.03(5). The Mayor shall solicit recommendations from the Board of Education of the Middleton-Cross Plains School District, and shall select the School District representative from the Board's recommended candidates.

### **(3) Powers and Duties**

The Pedestrian, Bicycle and Transit Committee shall research, investigate and advise other City Committees, Commissions and the Common Council on issues including, but not limited to, pedestrian safety, on street and off street bicycle accommodations, transit operations and potential service changes, mobility issues relating to youth, seniors and the disabled community and implementation of and updates to the City of Middleton Bike and Pedestrian Plan.

## **2.32 STORM WATER UTILITY BOARD**

### **(1) How Constituted**

The Storm Water Utility Board shall consist of seven members.

- (a) Three members recommended by the Water Resources Commission from the membership of that Commission.
- (b) One member recommended by the Public Works Committee from the membership of that Committee.
- (c) One member recommended by the Finance Committee from the membership of that Committee.
- (d) One member recommended by the Parks, Recreation & Forestry Commission from the membership of that Commission.
- (e) One member recommended by the Conservancy Land Committee from the membership of that Committee.

### **(2) Powers and Duties**

The Storm Water Utility Board shall be responsible for the charge, management and supervision of the Storm Water Utility, pursuant to the provisions of Section 9.09 of this Code.

## **2.33 BOARD OF ETHICS**

### **(1) Composition**

There is hereby created an Ethics Board to consist of seven members; one shall be an Alderperson who shall be a nonvoting member; one shall be a City public official or public employee who is not an alderperson as a nonvoting member; and five shall be voting citizen members. None of the five citizen voting members may concurrently serve upon any other City board, committee or commission. The City Human Resources Manager shall serve as staff to the Board. The City Attorney shall furnish the Ethics Board whatever legal assistance is necessary to carry out its functions.

### **(2) Powers and Duties**

- (a) The Ethics Board advises the Common Council on maintaining the Code of Ethics (Section 2.20(6) of this Chapter) which sets forth standards of conduct for City officials and employees, interprets those ethics guidelines, and investigates any verified complaint alleging improper conduct under the Ethics Code
- (b) The Ethics Board may make recommendations to the Common Council with respect to amendments of the Ethics Code.
- (c) The Ethics Board shall provide a standard form for persons to use when submitting a verified complaint alleging violations of the Ethics Code. "Verified" means that the complainant has made a declaration under oath or affirmation, before a notary public, that the complaint is true.
- (d) In the event any person submits a verified complaint alleging that any City official or employee, except any police officer subject to the jurisdiction of the Board of Police Commissioners, has violated the Ethics Code, the City Human Resources Manager and the Chairperson of the Ethics Board shall conduct an initial review of the complaint to determine whether it is complete in form. If the City Human Resources Manager and Chairperson determine that the verified complaint is incomplete, they shall notify the complainant and provide the complainant with an opportunity to submit the additional information needed to complete the verified complaint. If a complaint is filed against a police officer subject to the jurisdiction of the Board of Police Commissioners, the complainant shall be notified that the complaint will not be considered by the Ethics Board, but may be filed with the Board of Police Commissioners.

- (e) Following determination by the City Human Resources Manager and the Chairperson of the Ethics Board that the complaint is complete, the Ethics Board shall review whether the facts alleged in the verified complaint, if true, would constitute improper conduct under Section 2.20(6) of this Chapter and warrant further investigation. The Ethics Board shall decide whether this review is conducted in an open meeting or may be closed under Wis. Stats. § 19.85(1)(b) or (1)(f), however, the Ethics Board shall obtain and consider the opinion of the City Attorney. If the Ethics Board determines that the verified complaint does not allege facts sufficient to constitute a violation of Section 2.20(6) of this Chapter, it shall dismiss the complaint and notify the complainant. If the Ethics Board determines that the verified complaint was brought for harassment purposes, the Ethics Board shall so state.
- (f) If the Ethics Board determines that the facts alleged in the verified complaint if true, would constitute improper conduct under Section 2.20(6) of this Chapter, the Ethics Board shall conduct an investigation into the merits of the complaint. The Ethics Board may solicit the assistance of City officers and employees to assist in the investigation, and may retain outside contractors if deemed necessary to perform the investigation.
- (g) The Ethics Board shall notify the person whose conduct is under investigation of any meetings where evidentiary hearings are held or where a decision is reached on whether to proceed further on the complaint. The Ethics Board shall decide whether these proceedings shall be conducted in open meetings or shall be closed under Wis. Stats. § 19.85(1)(b) or (1)(f). The Ethics Board may issue subpoenas and administer oaths.
- (h) Upon completion of the investigation, the Ethics Board shall conduct a public hearing in accordance with all constitutional requirements of due process and issue written findings of fact and conclusions of law determining the propriety of the conduct of the person whose conduct is under investigation.
- (i) If appropriate, the Ethics Board shall refer the matter to the Common Council, District Attorney or other proper authority.

(O1455, 7/3/18)

## **2.34 WORKFORCE HOUSING COMMITTEE**

### **(1) How Constituted**

The Workforce Housing Committee shall consist of nine (9) voting and one (1) non-voting members, as follows:

- (a) One (1) alderperson
- (b) Seven (7) citizen members. Reasonable efforts shall be made to appoint citizen members with relevant experience relating to the creation of affordable housing including, but not limited to, development, construction, sales, marketing, financing or lending for affordable housing or affordable housing advocacy.
- (c) One (1) Plan Commission member designated by the Plan Commission
- (d) One (1) member who is a High-School student *O1608, 8/15/23*

### **(2) Powers and Duties**

The Workforce Housing Committee shall study, research, and recommend policies and actions which aim to increase the supply of housing affordable to the workforce and all residents in Middleton and shall make recommendations on how to effectively implement and appropriately update the City's Workforce Housing Strategy and the Housing Element of the City's Comprehensive Plan. At the request of the Plan Commission or Common Council, the Workforce Housing Committee shall review proposed residential developments and make recommendations with respect to the provision of affordable housing. The Workforce Housing Committee may exercise any other duties as the Common Council may delegate from time to time. *(O1515, 02/18/2020)*

## 2.35 LANDMARKS COMMISSION

### **(1) Purpose and Intent**

It is hereby declared a matter of public policy that the protection, enhancement, perpetration and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people.

The purpose of this section is to:

- (a) Effect and accomplish the protection, enhancement and perpetration of such improvements and of districts which represent or reflect elements of the City's cultural, social, economic and political and architectural history;
- (b) Safeguard the City's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts;
- (c) Stabilize and improve property values;
- (d) Foster civic pride in the beauty and noble accomplishments of the past;
- (e) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- (f) Strengthen the economy of the City; and
- (g) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the people of the City.

### **(2) Definitions**

In this section, unless the context clearly requires otherwise:

- (a) Commission  
"Commission" means the Landmarks Preservation Commission created under this section.
- (b) Historic District  
"Historic District" is an area designated by the Commission which contains one or more landmarks or landmark sites, as well as those abutting improvement parcels which the Commission determines should fall under the provisions of this section to assure that their appearance and development is harmonious with such landmarks or landmark sites.
- (c) Improvement  
"Improvement" means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment.
- (d) Improvement Parcel  
"Improvement Parcel" is the unit of property which includes the physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes; provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.
- (e) Landmark  
"Landmark" means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, state or nation and which has been designated as a landmark pursuant to the provisions of this Chapter.

(f) Landmark Site

"Landmark Site" means any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal man, or upon which an historic event has occurred, and which has been designated as a landmark site under this section, or an improvement parcel, or part thereof, on which is situated a landmark and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the landmark is situated.

**(3) Landmarks Commission; Composition and Terms**

The Commission shall be composed of one Alder and six qualified persons, competent and informed in the historical, architectural and cultural traditions of the community.

**(4) Landmarks and Landmark Site Designation Criteria**

- (a) For purposes of this ordinance a landmark or landmark site is any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural or cultural significance to the City, such as historic structures or sites which:
1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
  2. Are identified with historic personages or with important events in national, state or local history; or
  3. Embody the distinguishing characteristics or an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
  4. Are representative of the notable work of a master builder, designer or architect whose individual genius influenced his or her age; or
  5. Are unique and irreplaceable assets to the City and its neighborhoods; or
  6. Provide for this and future generations examples of the physical surroundings in which past generations lived.
- (b) The Commission may adopt specific operating guidelines for landmark and landmark site designation providing such are in conformance with the provisions of this paragraph.

**(5) Powers and Duties**

(a) Designation

The Commission shall have the power subject to subsection (6) hereof to designate landmarks, landmark sites and historic districts within the City. Such designations shall be made based upon the criteria established under subsection (4). Once designated by the Commission, such landmarks, landmark sites and historic districts shall be subject to all the provisions of this section.

(b) Regulation of Construction and Alteration

1. Any application for a permit from the Building Inspector involving a designated landmark, landmark site or improvement in an historic district, shall be filed with the Commission.
2. No owner or person in charge of a landmark, landmark site, or improvement in a historic district shall alter or reconstruct all or any part of the exterior of such property, construct any improvement upon any such designated

property, or cause or permit any such work to be performed upon such property unless the written approval of the Commission has been granted. Unless such approval has been granted by the Commission, the Building Inspector shall not issue any permit for any such work.

3. Upon the filing of an application with the Commission, the Commission shall determine:
  - a. Whether, in the case of a landmark, the proposed work would change, destroy, or affect any exterior architectural feature of the improvement upon which said work is to be done, and
  - b. Whether, in the case of construction of a new improvement, the exterior of such improvement would affect or not harmonize with the external appearance of other neighboring improvements on such site or in such district.
4. If the Commission determines both paragraphs a. and b. in the negative, it shall approve the permit; otherwise, it shall deny the request for approval. The Commission shall make this decision within 30 days after the filing of the application. Nothing contained herein shall be deemed to prevent the appeal of such denial to circuit court.
5. If the Commission denies the request for approval, the Commission and applicant shall cooperate and work together for a period of up to six months following the date of the initial application to find a suitable method of completing the proposed work. If no method is determined within the six month period, the Building Inspector shall issue the building permit without approval of the Commission.

(c) Regulation of Demolition

No permit to demolish all or part of a landmark, or improvement in an historic district shall be granted by the Building Inspector except as follows:

1. No person in charge of a landmark, or improvement in an historic district shall be granted a permit to demolish such property without written approval of the Commission.
2. At such time as such person applies for a permit to demolish such property, such application shall be filed with the Commission. Upon such application, the commission may refuse to grant such written approval for a period of up to 10 months from the time of such application during which time the Commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the Commission shall cooperate in attempting to avoid demolition of the property. At the end of this 10 month period if no method of saving the subject property bearing a reasonable prospect of eventual success is underway or if no application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the Building Inspector may issue the permit to demolish the subject property without the approval of the Commission.

(d) Recognition of Landmarks and Landmark Sites

At such time as a landmark or landmark site has been properly designated in accordance with subsections (4) and (6), the Commission shall cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is a landmark or landmark site. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a

landmark, the plaque shall state the accepted name of the landmark, the date of its construction, and other information deemed proper by the Commission. In the case of a landmark site which is not the site of a landmark building, such plaque shall state the common name of the site, and such other information deemed appropriate by the Commission.

(e) Other Duties

In addition to those duties already specified in this section, the Commission shall:

1. Actively work for the passage of enabling legislation which would permit the granting of full or partial tax exemptions to properties it has designated under the provisions of this section.
2. Work closely with the State of Wisconsin liaison officer and the Governor's liaison committee for the National Register of Historic Places of the United States National Park Service in attempting to include such properties hereunder designated as landmarks or landmark sites on the Federal Register.
3. Work for the continuing education of the citizens of Middleton about the historic heritage of this city and the landmarks and landmark sites designated under the provisions of this Chapter.

## **(6) Procedures**

(a) Designation of Landmarks, Landmark Sites, and Historic Districts

The Commission may establish landmarks, landmark sites and historic districts after notice and a public hearing thereon, and after application of the criteria in subsection (4). At least ten (10) days' notice of such hearing shall be given by mail to the owners of the premises, as well as to the owners of all lands located within 200 feet of the boundaries of the property affected. Notice of the hearing shall be published as a Class 1 notice pursuant to Wis. Stat. Chapter 985, and the Commission shall also notify the Board of Park, Recreation and Forestry Commissioners, the Public Works Committee, the Board of Police and Fire Commissioners and the Building Inspector of the hearing. Each such board or officer shall respond to the commission by filing its comments on the proposed designation. The Commission shall conduct such public hearing and, in addition to the notified persons and boards, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary or advisable. The Commission shall likewise conduct an independent investigation into the proposed designation. At any time after the closing of the public hearing, the Commission may designate the site or property as either a landmark, a landmark site or include it in an historic district. After such designation has been made, notification thereof shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector and City Assessor. The Commission shall cause such designation to be recorded in the office of the Register of Deeds of Dane County.

(b) Voluntary Restrictive Covenants

The owner of any landmark or landmark site may, at any time following such designation of the property, enter into a restrictive covenant on the subject property after negotiating with the Commission. The Commission may assist the owner in preparing such covenant in the interest of preserving the landmark or landmark site and shall record such covenant in the Office of the Dane County Register of Deeds, and shall notify the City Assessor of such covenant and the conditions thereof.

### **(7) Conformance with Regulations**

Every person in charge of any landmark, landmark site or improvement in an historic site or improvement in an historic district shall maintain the same or cause or permit it to be maintained in a condition consistent with the provisions of this Chapter.

### **(8) Maintenance of Landmarks, Landmark Sites, and Historic Districts**

Every person in charge of an improvement on a landmark site or in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair. This provisions shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.

### **(9) Conditions Dangerous to Life, Health, and Property**

Nothing contained in this section shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in an historic district pursuant to order of any governmental agency or pursuant to any court judgment, for the purposes of remedying conditions determined to be dangerous to life, health or property. In such case, no approval from the Commission shall be required.

### **(10) Sales of Landmarks and Landmark Sites**

Any party who is listed as the owner of record of a landmark site at the time of its designation, who can demonstrate to the Commission that by virtue of such designation the party is unable to find a buyer willing to preserve such landmark or landmark site, even though the party has made reasonable attempts in good faith to find and attract such a buyer, may petition the Commission for a rescision of its designation. Following the filing of such petition with the secretary of the Commission:

- (a) The owner and the Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.
- (b) If, at the end of a period not exceeding six (6) months from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescision, the Commission shall rescind its designation of the subject property.
- (c) In the event of such rescision, the Commission shall notify the City Clerk, Building Inspection Superintendent, and the City Assessor of same, and shall cause the same to be recorded at its own expense, in the office of the Dane County Register of Deeds.
- (d) Following any such rescision, the Commission may not redesignate the subject property a landmark or landmark site for a period of not less than five (5) years following the date of rescision.

### **(11) Issuance of Demolition Permits**

No demolition or building permits shall be issued for potential landmarks, landmark sites or historic sites or districts during the period of time between the date of publication of the notice of hearing on the designation and fifteen days after the hearing date.

### **(12) Penalty for Violations**

Any person violating any provision of this Chapter shall be subject to a forfeiture of not more than \$200 for each separate violation. Each and every day during which a violation continues shall be deemed a separate offense.

### **(13) Separability**

If any provision of this Chapter or the application thereof to any person or circumstance is held



invalid, the remainder of this Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.