

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

THE FOLLOWING WAS PRESENTED

By Ald. Johnson

Sec'd by Ald. Ramkissoon

Date of Adoption: 03-04-14

Index No: 69-14

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Kleiner		X		
Ald. Witt				X
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Sommers	X			
Ald. Jean-Francois	X			
Ald. Burr	X			
Ald. Masi		X		
Pres. Rodrigues	X			
TOTAL	6	2		1

WHEREAS, the Common Council in July, 2009 enacted an Amortization Ordinance that phased out multiple dwellings in R-1, R-2 and OR-2 zoning districts, and

WHEREAS, this Ordinance was challenged in both State and Federal courts, and

WHEREAS, the City won on all of the substantive and procedural issues in these cases, except for the fact that the Ordinance was not sent to the County Planning Office prior to its passage, and

WHEREAS, the Corporation Counsel's Office updated the statistics involving code violations and police calls that were presented to the Council in 2009, and

WHEREAS, this update is provided and analyzed in a Memorandum dated July 11, 2013, from the Assistant Corporation Counsel to the Common Council, and

WHEREAS, the update reveals little improvement in the police call records to the 125 multiple dwellings to be amortized in the present Resolution, and

WHEREAS, the update reveals a substantial worsening in code violations in the subject multiple dwellings since summer of 2009, and

WHEREAS, it is common knowledge amongst City officials that there are far more code and police issues with multiple dwellings than there are with single and two-family dwellings, as verified by the Assistant Corporation Counsel in his 20 years as prosecutor in City Court, and

WHEREAS, the Common Council, as in 2009, has been provided with data indicating that multiple dwellings are undesirable and out of character in R-I, R-2 and OR-2 zoning districts and are impairing the orderly development and general welfare of such zoning districts, and

WHEREAS, the City of Middletown Comprehensive Plan and current City policies support and encourage the creation and continuance of mixed commercial and residential use buildings, and

WHEREAS, The 2009 Ordinance contained a 5-year amortization period, plus a possible 5-year extension if the Zoning Board of Appeals determined there was a hardship, and

WHEREAS, because the owners of the subject multiple dwellings have now had 4 years since the summer of 2009, it is appropriate to now provide a 3-year amortization period, plus a possible 5-year extension to be determined by the ZBA.

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Common Council of the City of Middletown as follows:

Section 1. The Common Council hereby adopts the July 11, 2013 Memorandum of the Assistant Corporation Counsel as a finding of facts.

Section 2. Chapter 475 of the Code of the City of Middletown, Zoning, Article V, Non-Conforming Uses and Buildings, Section 475.44, Continuation; restrictions, is hereby amended by replacing Paragraph (3.5) of Subsection J to read as follows:

3.5. Any multiple dwelling in existence as of the date of enactment of this ordinance shall, at the expiration of three years from such date, become a prohibited and unlawful use and shall be discontinued, excepting, however, that this Paragraph shall not apply to any multiple dwelling which is owner-occupied, and further excepting that this Paragraph shall not apply to any multiple dwelling which is contained in a mixed commercial and residential building, and further excepting that this Paragraph shall not apply to any multiple dwelling for which it is structurally unreasonable to convert into a lawful use in the subject zoning district. The determination as to whether it is structurally unreasonable to convert.