

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

THE FOLLOWING WAS PRESENTED

By Ald. Kleiner

 Sec'd by Ald. Green

 Date of Adoption 05-18-21

 Index No: 112-21

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

WHEREAS, at the recommendation of the Mayor and Public Works Commissioner, the City of Middletown will implement new garbage and recyclables collection procedures utilizing trucks with mechanical arms that will pick up City-provided receptacles, and

WHEREAS, the Common Council wishes to provide new regulations with respect to garbage and recyclables collection in the City of Middletown.

NOW, therefore, be it RESOLVED AND ORDAINED by the Common Council of the City of Middletown as follows:

Section 1. Chapter 407 of the Code of the City of Middletown, Solid Waste, is hereby amended to read as follows:

ARTICLE I. GENERAL PROVISIONS

Section 407-1. Definitions; word usage.

The following terms shall have the meanings indicated:

ASHES

The residue from coal or other fuel.

COLLECTIBLE RECYCLABLES

Those items which are determined by Orange County to be marketable and collectible at its recycling center, or those items which are determined by the Commissioner of Public Works of the City (or his/her agent) to be marketable and collectible as recyclable materials or products, and all of the foregoing items shall be known as "recyclables."

DROPOFF CENTER

A facility provided by the City for the express purpose of collecting garbage and recyclables.

DUMPSTER

A large, metal trash bin, often of a kind that is emptied, or transported to a dump, by a specially equipped truck; also includes all types of trash containers referred to in general as trash dumpsters.

GARBAGE

All putrescible and nonputrescible materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including garbage, rubbish, ashes and refuse by definition in this Article, and also including the organic waste of meat, bones, fish, fruit, vegetables or any animal or vegetable matter, including tin cans, that have contained food material.

NONCOLLECTIBLE RECYCLABLES

Those items which, by law, must be returned to the seller, including but not limited to deposit bottles and waste oils.

RECEPTACLES

Containers for garbage or recyclables which will be provided by the City of Middletown for the deposit of household garbage and recyclables. Such receptacles shall be sized 95, 65 or 35 gallons.

REFUSE

Inorganic waste such as bottles, glass, crockery, metals or other incombustible matter, including grass clippings, leaves and tree trimmings.

RUBBISH

Paper, wood, leather, cloth or any other combustible matter.

Section 407-2. Penalties for offenses.

Any person, partnership, corporation or other entity who or which violates any provision of this Chapter shall be guilty, upon conviction, of an offense punishable by a fine not less than \$250 nor more than \$1,000 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense

ARTICLE II. COLLECTION

Section 407-3. Collection.

A. Receptacles. The City will provide garbage and recycling collection services only to those properties located in the City which utilize City-provided receptacles. All property owners or other persons in possession of premises for which the City provides garbage or recycling collection must use City-provided receptacles only for the exterior storage of garbage and recyclables. All exterior storage of garbage and recyclables must be inside the receptacle; the lid of the receptacle must be closed at all times; any other exterior storage of garbage or recyclables is a violation of this Subsection. No household or business generated garbage may be placed in the littering cans placed by the City on public property. Except when placed on the curb for pickup, as provided in Subsection E, below, no receptacle may be stored or left within 30 feet of any public street, unless the receptacle is stored inside a building or is obscured from view by fencing or other suitable enclosure. The enclosure must be substantially opaque when viewed from the exterior and shall prevent the receptacles from being viewed. This 30-foot rule may be waived by the Commissioner of Public Works when he/she, in his/her sole discretion, determines the rule to be unreasonable or impractical.

B. Fees for and numbers of receptacles. The City will provide a single set of receptacles, consisting of one green garbage receptacle and one blue recycling receptacle, free of charge to each single-family residence in the City, and to each mixed-use building that includes a single-family residence. The City will provide two such sets of free receptacles to each two-family residence, each multi-family residence, and to each mixed-use building that includes two or more residential units. The City will provide a single set of such free receptacles to any commercial property in the City, provided such property is not utilizing a dumpster picked up by the City for disposal of garbage and recyclables. Any property owner who wishes to have more receptacles can acquire same from the City at an annual fee of \$100 per each receptacle. No property in the City may utilize more than eight receptacles, unless authorized in writing by the Commissioner of Public Works or his/her agent. The Commissioner of Public Works, in his/her discretion, may allow property owners with disabilities permission to vary the size of receptacles required by the City.

C. Care of receptacles. All receptacles shall remain the property of the City. The property owner is responsible for the care and maintenance of all receptacles stored on his/her property. The City will supply replacement receptacles free of charge for receptacles which have suffered normal wear and tear which renders them not suitable for continued use. The City will charge a fee of \$100 per receptacle to replace receptacles that are lost, stolen or damaged by the negligence of the property owner or other persons using such receptacles.

D. Pickup schedule. Garbage will be collected once per week throughout the year and at such other times as deemed necessary by the Mayor and/or the

Common Council. Recyclables collection shall occur each week City-wide on Friday. Garbage collection shall occur each week upon the following schedule:

1. First Ward: Thursday
2. Second Ward: Tuesday
3. Third Ward: Wednesday
4. Fourth Ward: Monday.

E. Set-out requirements. All receptacles must be set out on the curb no earlier than 5:00 p.m. in the evening prior to the day of pickup. All receptacles must be placed on the curb no farther than four (4) feet from the property's driveway; if the property has no driveway, the receptacles must be placed on the curb in an area designated by the Department of Public Works. All receptacles must be placed in a location where access thereto by the City's trucks, equipped with mechanical arms, is not obstructed in any way. It is a violation of this Subsection to place receptacles for pickup at any other location. All garbage and recyclables must be stored inside the receptacle for pickup; any storage of garbage or recyclables outside of the receptacle for pickup is a violation of this Subsection; the lid on each receptacle must be closed. Only City-provided receptacles may be placed on the curb. All receptacles must be removed from the curb no later than 7:00 p.m. on the day of pickup.

F. Dumpsters. All permanent on-site dumpsters shall be obscured from view by fencing or other suitable enclosures. The enclosures shall be substantially opaque when viewed from the exterior and shall prevent the dumpster from being viewed. The enclosures shall be at least six feet high but no more than nine feet high. The enclosures shall be equipped with a locking gate at all business and commercial premises. Temporary dumpsters are excluded from this provision.

G. Dumpsters for apartment complexes. The City will provide the necessary dumpsters to the six apartment complexes presently picked up by the City. These dumpsters will remain the property of the City and will be marked accordingly. The six apartment complexes are: [\(1\)](#) Tall Oaks, [\(2\)](#) Summitfield, [\(3\)](#) Towne Terrace, [\(4\)](#) 80 Sproat Street, [\(5\)](#) 70 Sproat Street, and [\(6\)](#) David Moore Heights. It shall be the responsibility of these complexes to provide an area large enough to accommodate four dumpsters, and located in an area acceptable to the Commissioner of Public Works or his/her agent. Said location must be kept clean and orderly by the complex owners and fenced, if required by the Commissioner. This location shall be level and easily accessible for City trucks. The pickup of these locations will follow the same schedule as provided in this Section. If additional complexes are to be serviced by the City, it shall be the responsibility of the owners to provide the dumpster(s) and comply with the provisions of this Section.

H. Leaves and yard waste. Notwithstanding any other provision in this Section, the time period between October 15 and November 15 of each calendar year, inclusive of both days, is hereby declared to be a general City-wide cleanup period for leaves and yard waste. During this cleanup period, leaves and yard waste may be

deposited in City streets no further than four feet from the curb. At all other times during the year, leaves and yard waste must be placed in receptacles, biodegradable bags or dumpsters in accordance with the provisions of this Section.

I. Recyclables. The State of New York and the County of Orange have mandated that municipalities recycle. Recyclables will be determined by the County of Orange's markets, and will be subject to change. All recyclables, liquid or putrescible containers shall be thoroughly rinsed before depositing into a receptacle. Comingling garbage and recyclables in the same receptacle is a violation of this Section. It shall also be a violation of this Section to remove recyclables from receptacles for any purposes unless authorized by the Commissioner of Public Works or his/her agent.

J. Business Improvement District ("BID").

(1) All of the subsections in this Section shall apply to receptacles and collection in the BID, except for Subsections D and E and the last sentence of Subsection B.

(2) The maximum number of receptacles allowable for a parcel of land in the BID is four.

(3) The City will collect garbage in the BID each day. All receptacles must be set out on the curb between 8:00 p.m. and 2:00 a.m. All receptacles must be placed on the curb in such a position as to not unreasonably obstruct pedestrian traffic on the sidewalk. All garbage and recyclables must be stored inside the receptacle for pickup; any storage of garbage or recyclables outside of the receptacle for pickup is a violation of this Subsection; the lid on each receptacle must be closed. Only City-provided receptacles may be placed on the curb.

(4) All receptacles must be removed from the curb no later than 12:00 noon each day.

(5) When not on the curb, all receptacles must be stored inside a building, or at least thirty (30) feet from any public street, or in an enclosure which is obscured from view by fencing or other suitable means. This requirement may be waived by the Commissioner of Public Works when he/she, in his/her sole discretion, determines the requirement to be unreasonable or impractical.

(6) The above paragraphs in this Subsection shall not apply to eating or drinking establishments, or manufacturing enterprises, or similar uses, all of which must utilize City-provided dumpsters or drop-off centers for garbage disposal, unless written exemption is provided by the Commissioner of Public Works or his/her agent.

(7) The above paragraphs in this Subsection shall be enforceable against all property owners, tenants or persons in possession of premises located in the BID.

K. All property owners must have a written plan for garbage collection in each lot:

- (1) owned in the BID; or
- (2) used for commercial purposes; or
- (3) used for a multiple dwelling.

The plan must conform to a template to be provided by the City. This plan must include provision for notice of this Ordinance to tenants and anyone else residing in or doing business in the subject premises. The written notice must be signed by all tenants and any other persons in residence or possession. The written plan and notice must be available to City personnel performing annual or other inspections.

L. In addition to the collection provided for above in this Section, the City shall maintain drop-off centers and dumpsters for the collection of garbage and recyclables. BID drop-off centers are for use by property owners or their tenants in the BID only; any use of such drop-off centers by other persons or entities is a violation of this Article, punishable as provided in Section 407-2, above.

Section 407-4. Dumping prohibitions.

A. Dumping in prohibited places. It shall be unlawful for any person, partnership or corporation to dump, place, deposit or permit to be deposited upon any public or private property or upon any street, sidewalk, park or other public place in the City of Middletown any garbage, rubbish or other objectionable waste. No person or entities shall cast, lay, push or place in any of the brooks or streams running through the City of Middletown, New York, any dirt, ashes, cinders, filth, garbage, sticks, stones or rubbish of any kind whatever.

B. Dumping by nonresidents. No person, partnership or corporation not a resident of or conducting an established business in the City of Middletown shall dump or deposit any garbage, rubbish, ashes or other objectionable wastes within the City of Middletown.

C. Dumping of rubbish from outside City. No person, partnership or corporation, a resident of or conducting business in the City of Middletown, shall dump or deposit any garbage, rubbish, ashes or other objectionable wastes originating outside of the City of Middletown, within the City of Middletown.

D. Placement for collection. Nothing in this Section shall be construed to prohibit the placing of ashes, rubbish or garbage in receptacles as provided in Section 407-3 for removal by the City of Middletown. However, it shall be unlawful for any person or entity to utilize a receptacle provided by the City unless such person or

entity is an owner, tenant or doing business at the property to which the receptacle has been provided. It shall be unlawful for any person other than an authorized employee of the City to disturb, remove or willfully and maliciously tip over and spill the contents of garbage or recycling receptacles.

E. Dumping of fill materials; permission required. Nothing in this Section shall be construed to prohibit the dumping of sand, gravel, ashes, stones or other suitable fill material, provided that permission for such fill has been obtained from the Commissioner of Public Works.

F. Any violation of this Section is punishable as provided in Section 407-2, above.

Section 2. This ordinance shall take effect immediately.