**MIDDLETOWN BOROUGH**

**ORDINANCE NO. 2021 – 1376**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MIDDLETOWN, PART I, ADMINISTRATIVE LEGISLATION, TO ESTABLISH A NEW CHAPTER 26 TO CREATE A FIRE APPARATUS FUND FOR THE MIDDLETOWN VOLUNTEER FIRE DEPARTMENT, WHEREBY THE ESTABLISHMENT, FUNDING CONTRIBUTIONS, USE AND ADMINISTRATION OF SAID FUND SHALL BE DEFINED.**

**WHEREAS**, the Borough of Middletown, Dauphin County, Pennsylvania (the “Borough”), is a body corporate and politic duly organized and existing as a political subdivision under the laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, per the Borough Code, Chapter 23, Fire Department, Article I, Establishment and Organization, Section 23-1 provides that the Middletown Volunteer Fire Department (the “Department”), incorporated on October 28, 2004, is the Fire Department of the Borough; and

**WHEREAS**, Borough Council has determined that to ensure the provision of proper and necessary fire and rescue apparatus and associated equipment in the Borough, that a fire apparatus fund be created to provide a dedicated funding resource for the purchase of replacement fire and rescue apparatus and associated equipment; and

 **WHEREAS,** the Borough Council has found that expenses may arise within the Department specifically related to the purchase of replacement fire and rescue apparatus and associated equipment not covered under the Borough’s annual budget; and

 **WHEREAS,** the Borough Council believes it is wise to make funds available for these inevitable expenses that may be significant in nature; and

 **WHEREAS,** Borough Council may create a special fund and set aside money to be deposited into the special fund; and

 **WHEREAS**, it is within the Borough’s power to purchase or contribute to the purchase of fire engines and fire apparatus for fire, rescue and lifesaving services within the Borough, and to appropriate money for same; and

 **WHEREAS,** the Borough Council desires to amend the Borough’s Code of Ordinances in order to establish a fire apparatus fund to help cover expenses related to the acquisition of the aforementioned apparatus and associated equipment; and

 **WHEREAS**, the Borough Council has made this consideration in the best interest of Borough residents.

 **NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED**, by the authority of the Borough Council of the Borough of Middletown, Dauphin County, Pennsylvania, pursuant to 8 Pa.C.S. § 1313.1, Creation of Special Funds and Investments, that the Code of Ordinances of the Borough of Middletown, Part I, Administrative Legislation, be amended as follows:

**SECTION 1**. The Code of Ordinances of the Borough of Middletown, Part I, Administrative Legislation, shall be amended to create a new Chapter 26 and titled “Fire Apparatus Fund” and add a new Article I, Establishment and Administration and add a new § 26-1 to read as follows:

§ 26-1 Establishment.

There shall be established in the Borough of Middletown (hereinafter the “Borough”) a Fire Apparatus Fund pursuant to the authority set forth in 8 Pa.C.S. § 1313.1 for the creation of special funds and investments and the authority set forth under 8 Pa.C.S. § 1202(35) for the appropriation of funds for fire companies for the purchase of fire engines and fire apparatus for fire, rescue and lifesaving services within the Borough. The Borough shall set aside money in the Fire Apparatus Fund for the payment of expenses that may arise in the ordinary course and operation of the Borough’s Fire Department related to the acquisition of fire and rescue apparatus and associated equipment to be used by the Fire Department of the Borough. The administration, control, investment and expenditure of the Fire Apparatus Fund by Borough Council shall be in accordance with this Chapter.

**SECTION 2**. The Code of Ordinances of the Borough of Middletown, Part I, Administrative Legislation, Chapter 26, Fire Apparatus Fund, Article I, Establishment and Administration § 26-2 shall read as follows:

§ 26-2 Administration.

A. Deposits.

The Fire Apparatus Fund shall be funded by annual contributions from the Borough’s General Fund. Transfers shall be made to the Fire Apparatus Fund from the General Fund each year that there’s an end-of-year surplus. A transfer equal to 10% of the General Fund’s surplus shall be made after receipt by the Borough of the audited financial statements for the fiscal year for which there was a year-end surplus. There shall be no maximum placed on the total Fire Apparatus Fund balance.

B. Expenditures.

Payments out of the Apparatus Fund shall be for the purchase of fire engines and fire apparatus for fire, rescue and lifesaving services. Such expenditures are those that would result in significant unanticipated revenue shortfalls if paid out of the General Fund. Consistent with Section § 1313.1 of the Borough Code, expenditures from the Fire Apparatus Fund shall be in the manner as may be determined by action of Council as authorized under this governing ordinance.

C. Investments.

Money deposited into the Fire Apparatus Fund shall be subject to the investment rules governing Borough funds set forth under 8 Pa.C.S. § 1316 Investment of Funds.

**SECTION 3**. **SEVERABILITY.** If any section, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance or Chapter 26 of the Code of the Borough of Middletown as a whole, or any other section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance or Chapter 26 of the Code of the Borough of Middletown. Borough Council hereby declares that it would have adopted this Ordinance and each section, phrase and word thereof, irrespective of the fact that any one or more of those sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

**SECTION 4**. **REPEALER.** All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

**SECTION 5**. **EFFECTIVE DATE.** This Ordinance shall become effective in accordance with applicable law.

 **BE IT DULY ORDAINED AND ENACTED** into law this \_\_\_\_ day of \_\_\_\_\_\_\_\_ 2021, by the Borough of Middletown, Dauphin County, Pennsylvania, in lawful session duly assembled.

ATTEST: **BOROUGH COUNCIL OF THE**

 **BOROUGH OF MIDDLETOWN**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Grace Miller Ian Reddinger

Borough Secretary Borough Council President

**AND NOW THIS \_\_\_\_\_** day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021, the foregoing Ordinance is approved.

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 James H. Curry III

 Mayor

I hereby certify the foregoing Ordinance was advertised in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at the regular meeting of the municipality’s governing body held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021.

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Grace Miller

Borough Secretary