

ORDINANCE NO. 2019-338

AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, AMENDING SECTIONS 5-509, 5-515 AND 5-518, PART 5 OF CHAPTER 5 OF THE BOROUGH CODE WHICH REGULATES RENTAL UNITS BY PROVIDING FOR REGULAR INSPECTION AND PERMITTING OF THE UNITS AND IMPOSES PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the Council of the Borough of Middleburg (hereinafter the "Council") has determined that non-owner-occupied dwelling units are frequently maintained at a standard significantly lower than owner-occupied dwelling units and that the failure to maintain those units can and frequently does result in dwelling units which are unsafe, unsanitary and, in many instances, not maintained to the minimum standards required by the various applicable codes in effect in the Borough of Middleburg from time to time; and

WHEREAS, the Council believes that this Ordinance will protect and promote the public health, safety and welfare of its citizens, establish rights and obligations of owners and occupants relating to residential rental units in the Borough and encourage owners and occupants to maintain and improve the quality of rental units within the community; and

WHEREAS, the Council intends to amend Section 5-509 to create a 3-year inspection cycle, to require annual inspections if a property fails an inspection, and to require inspections every time a rental unit becomes vacant; and

WHEREAS, the Council intends to amend Section 5-515 to add a new subparagraph B, which clarifies that a Code Official may revoke a previously-issued rental license during a rental inspection if a violation renders the premises uninhabitable; and

WHEREAS, the Council intends to amend Section 5-518 to add a new subparagraph A (and turn the current paragraph into a subparagraph B), which requires an inspection report that will act as a Notice of Violation, including a date to remedy said violation.

NOW, THEREFORE, pursuant to the authority of Sections 1202(5), 1202(14) and 1202(15) of the Borough Code (53 P.S. § 45101 *et. seq.*) it is hereby ordained and enacted by the Council of the Borough of Middleburg, Snyder County, Pennsylvania, as follows:

Section 1. Part 5 of Chapter 5 of the Code of the Borough of Middleburg, Sections 5-509, 5-515 and 5-518 are amended as follows (the below portions are bolden only to highlight the revisions to those sections):

Part 5

Licensing of Rental Properties

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§ 5-509. Annual license renewal. Inspections.

- A. Annual renewal. All rental licenses shall be renewed by the first day of February of each calendar year. The issuance of an annual rental license does not restrict the requirement for a rental inspection pursuant to Paragraph B below, or the Code Official's ability to revoke the rental license should the Code Official determine that a violation exists. The license shall be valid for one year.
- B. Inspection. Residential rental unit inspections shall be completed by the last day in June of the year in which an inspection is required, as determined below:
 - 1. All units shall be inspected every three (3) years.
 - 2. All units on any premises on which any violation of this Part has occurred, shall be inspected once a year or each time the unit is vacant pursuant to subsection E, below, whichever comes first. This inspection frequency shall continue until:
 - a. a period of three (3) years passes with no violations on the premises, or
 - b. ownership of the property changes and a period of one (1) year passes with no violations on the premises.
- C. The Code Official shall record the inspection findings on a written Inspection Report.
- D. Transfer of property ownership. If at any time during the license year all current property owners of any rental unit change, then the license shall expire, and the new property owner(s) shall comply with all provisions of this chapter.
- E. Departure of a tenant. Any time a tenant moves out of the rental unit and the unit becomes vacant, the property owner must have another inspection performed before a new tenant may move into the property.

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§ 5-515. Remedies.

- A. This chapter is not intended, nor shall its effect be, to limit any other enforcement remedies which may be available to the Borough relating to the abatement of nuisances or correction of violations.
- B. **If at any time during an inspection pursuant to §5-509, or any other lawful inspection, the Code Official determines that there is a violation of this Part 5, or a violation of the property maintenance code adopted by the Borough which renders the rental unit uninhabitable, the Code Official may revoke the rental license.**
- C. If any violation of this chapter occurs, the Code Official may, in addition to other remedies, institute in the name of the Borough any appropriate action or proceedings to prevent, restrain, correct or abate the violation.
- D. Any expenses incurred by the Borough while enforcing this chapter shall be recoverable from the property owner, together with a penalty of ten percent (10%) of such expense, in a manner provided by law for the collection of municipal claims. In addition, the offender shall be subject to all other penalties provided in this chapter.
- E. The owner, occupant, tenant or person in charge of any property or rental unit possesses the right to deny entry into any property or rental unit by a Code Official for purposes of compliance with this chapter. However, nothing in this chapter shall prohibit a Code Official from doing any or all of the following:
 - 1. Asking an owner, occupant, tenant or person in charge of a property or rental unit for permission to inspect the property or rental unit for compliance with this chapter and all other applicable laws, regulations and codes.
 - 2. Getting a search warrant, based on probable cause, to enter the property or rental unit.
 - 3. Entering the property or rental unit in the case of emergency circumstances requiring expeditious action.

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§ 5-518. Violations and penalties.

- A. **The Code Official shall provide the property owner with a copy of the Inspection Report, which report shall constitute a Notice of Violation under this section. The property owner must remedy all violations identified in the Inspection Report by the date noted in**

the Inspection Report by the Code Official. Failure to remedy the violation will result in penalties outlined in Paragraph B, below. Nothing in this chapter should be construed to prevent the Code Official from issuing a separate Notice of Violation for any and all code violations observed during the inspection.

- B. Whoever violates or fails to comply with any of the provisions of this chapter, or any provision of any rule or regulation adopted by the Borough, or by the Code Official pursuant to authority granted by this chapter, or fails to correct, within the time set by the Code Official, the defects for which a dwelling has been cited shall be fined not less than \$100 nor more than \$1,000 or imprisoned not more than 30 days in the county jail, or both such fine and imprisonment. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

Section 2. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part not been included.

Section 3. All ordinances or resolutions, or parts of ordinances or resolutions, which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistency with the terms of this Ordinance.

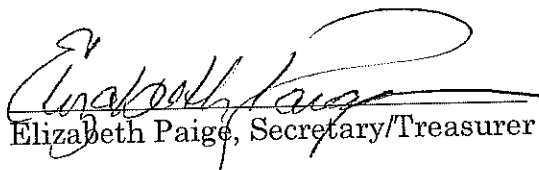
Section 4. In all other respects Chapter 5 of the Code of the Borough of Middleburg shall remain as it was previously enacted, ordained and amended.

Section 5. The requirements of this chapter shall take effect five (5) days after enactment by the Borough.

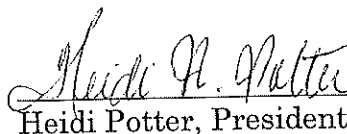
DULY ENACTED AND ORDAINED this 9th day of April, 2019, by the Council of the Borough of Middleburg, Snyder County, Pennsylvania, in lawful session duly assembled, after receiving public comment thereon and following proper notice of its intent to consider adoption of this Ordinance.

ATTEST:

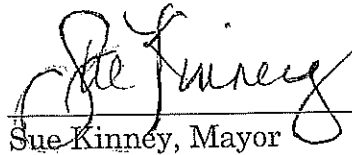
BOROUGH OF MIDDLEBURG:


Elizabeth Paige, Secretary/Treasurer

BY:

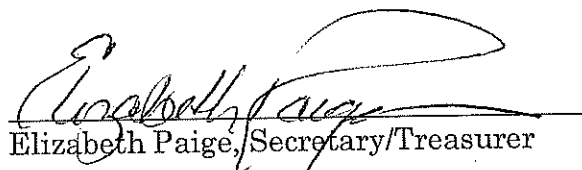

Heidi Potter, President

APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG,
SNYDER COUNTY, PENNSYLVANIA, THIS 9th DAY OF APRIL, 2019.


Sue Kinney, Mayor

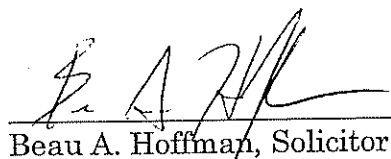
CERTIFICATE OF ADOPTION

AND NOW, this 9th day of April, 2019, I hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Borough Council of the Borough of Middleburg, Snyder County, Pennsylvania, at a properly called and duly-advertised meeting held on April 9th, 2019, at which time a quorum was present.


Elizabeth Paige, Secretary/Treasurer

CERTIFICATE OF PREPARATION

AND NOW, this 9th day of April, 2019, I hereby certify that I prepared the foregoing Ordinance adopted by the Borough Council of the Borough of Middleburg, Snyder County, Pennsylvania, at a properly called and duly-advertised meeting held on April 9th, 2019.


Beau A. Hoffman, Solicitor