

ORDINANCE NO. 2020- 348

**AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 10 OF THE MIDDLEBURG BOROUGH CODE TO: IDENTIFY AND DEFINE PUBLIC NUISANCES IN THE BOROUGH OF MIDDLEBURG; ESTABLISH THE PROCESSES FOR DECLARING AND REMEDIATING PUBLIC NUISANCES IN THE BOROUGH OF MIDDLEBURG.**

**WHEREAS**, the Pennsylvania General Assembly has enacted the Neighborhood Blight Reclamation and Revitalization Act, 53 Pa. C. S. § 6101, *et seq*;

**WHEREAS**, pursuant to the Neighborhood Blight Reclamation and Revitalization Act, the Borough of Middleburg has a cause of action against property owners who fail to abate public nuisances as defined in the Code of the Borough of Middleburg;

**WHEREAS**, the Council of the Borough of Middleburg desires to identify and define public nuisances within the Borough of Middleburg and the processes by which the Borough of Middleburg may declare and remediate public nuisances;

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED**, and it is hereby ordained and enacted by the Council of the Borough of Middleburg, Snyder County, Pennsylvania:

**Chapter 10 Health and Safety** of the Code of the Borough of Middleburg is amended to read as follows:

**Part 2 PUBLIC NUISANCES**

**§10-201. Definitions.**

The following words and phrases used in this Part shall have the meanings hereinafter ascribed to them unless the context clearly indicates otherwise:

**CODE ENFORCEMENT OFFICER**

The Code Enforcement Officer of the Borough of Middleburg duly appointed pursuant to §5-702 of this Code.

**OWNER**

A holder of the title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record.

## **PERSON**

A natural person, firm, partnership, association, corporation or other legal entity.

## **PUBLIC NUISANCE**

Includes, but is not limited to, the following:

1. The physical condition or use of any property regarded as a public nuisance at common law.
2. Any physical condition, use or occupancy of any property or its appurtenances considered an attractive nuisance to children.
3. Any property designated as unsafe for human habitation or use.
4. Any property which is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured as to endanger life, limb or property.
5. Any property which the plumbing, heating and/or facilities required under this Code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided.
6. Any property which is unsanitary, littered with rubbish or garbage, or is subject to uncontrolled growth or weeds.
7. Any structure or building that is:
  - (A) In a state of dilapidation, deterioration or decay;
  - (B) Open, vacant or abandoned;
  - (C) Damaged by fire to the extent as not to provide shelter;
  - (D) In danger of collapse or failure and is dangerous to anyone on or near the property;

- (E) In danger of polluting a nearby waterway due to its dilapidation, deterioration, decay, vacancy or abandonment; or
  - (F) In danger of causing harm to people, animals, vegetation or waterways due to the existence of hazardous chemicals or other substances.
8. Any conditions, structures or improvements which constitute a threat or potential threat to the health, safety or welfare of the citizens of the Borough, including, but not limited to, the unsheltered storage or maintenance of unused, stripped, damaged and generally unusable machinery or equipment, or materials, fixtures or appliances if any of the following conditions exist:
- (A) Broken glass or metal parts with sharp or protruding edges;
  - (B) Openings or areas which are conducive to the harboring and growth of vermin or pest insects;
  - (C) Storage in any manner which would allow the equipment, machinery, materials or any parts thereof to easily shift, tilt or fall from its original storage position; or
  - (D) Contains any liquid or material of a hazardous or potentially hazardous nature including, but not limited to, gasoline, oil, chemical solvents, dangerous acids, refrigeration agents and poisons.
9. Any conditions on a property that directly or indirectly create a health hazard to residents of the Borough.

#### **REASONABLE CAUSE**

Facts, evidence or circumstances sufficient to justify a reasonable person in his or her belief.

#### **§10-202. Public Nuisances prohibited.**

It shall be unlawful for any Person to create or maintain any condition upon their property which constitutes a Public Nuisance or which could directly or indirectly cause or create a Public Nuisance.

**§10-203. Inspection; notice to comply.**

1. The Code Enforcement Officer is hereby empowered to investigate any complaints of a Public Nuisance and is also empowered to inspect any property in or upon which the Code Enforcement Officer has Reasonable Cause to believe a Public Nuisance exists, including, but not limited to, the inspection of any machinery, equipment and/or various stored materials to determine if there is compliance with the provisions of this Part. In the event the Code Enforcement Officer determines that a Public Nuisance exists, the Code Enforcement Officer shall issue to the Owner of the property a written notice to be served by first-class mail, registered or certified mail, and by posting the notice conspicuously upon the offending property.
2. Said notice shall specify the conditions considered to be a Public Nuisance and shall require the Owner to commence to remove or otherwise rectify the condition as set forth therein within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time. Notwithstanding a building, structure or property meeting the definition of a Public Nuisance, if the Code Enforcement Officer also determines that any such building or structure is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy, and such that it is unreasonable to repair the structure or building, the Code Enforcement Officer shall order the demolition or boarding up of the building or structure pursuant to Chapter 5 Part 4 of this Code.
3. If the Owner, agent, operator or occupant or other Person in charge of any building, structure or property fails or refuses to permit entry and free access to the property with respect to any inspection authorized under this Section, the Code Enforcement Officer shall have the right to pursue entry in accordance with the procedures set forth in §§5-704.4 and 5-704.5 of this Code.

**§10-204. Failure to comply with notice.**

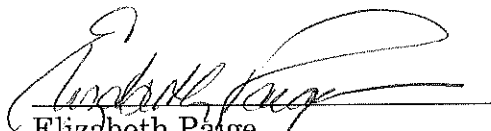
If the Owner, agent, operator or occupant or other Person in charge of any building, structure or property declared to be a Public Nuisance does not comply with the notice to abate the conditions within the time limit prescribed, the Borough of Middleburg and/or the Code Enforcement Officer shall, in addition to the remedies provided in this Code, have recourse to the remedies provided by law to secure compliance.

**§10-205. Violations and penalties.**

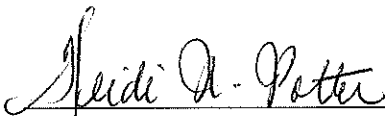
1. Any Person who violates a provision of this Part shall be, upon conviction thereof, sentenced to pay a fine of not less than \$300 nor more than \$1,000 for each violation, plus costs, and, in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
2. A separate offense shall arise for each day or portion thereof in which there is a violation of this Part. All fines and penalties for a violation of this Part shall be paid to the Borough Administrator.
3. The Borough may also commence appropriate actions in equity, at law or otherwise to prevent, restrain, correct, enjoin, or abate violations of this Part including, where authorized, the institution of an *in personam* action against the Person holding title to a violating property under the Neighborhood Blight Reclamation and Revitalization Act, 53 Pa. C. S. § 6101, *et seq.*

DULY ENACTED AND ORDAINED this 12<sup>th</sup> day of May 2020, 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:

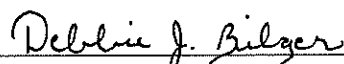
  
Elizabeth Paige  
Administrator/Secretary

BOROUGH OF MIDDLEBURG:

BY:   
Heidi Potter, President

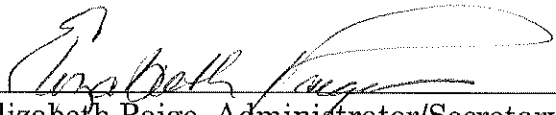
(Middleburg Borough Seal)

APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG,  
SNYDER COUNTY, PENNSYLVANIA, THIS 12<sup>th</sup> DAY OF MAY 2020.

  
Debbie Bilger, Mayor

**CERTIFICATE OF ADOPTION**

AND NOW, this 12<sup>th</sup> day of May 2020, 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 May 12<sup>th</sup>, 2020, at which time a quorum was present.

  
Elizabeth Paige, Administrator/Secretary  
(Middleburg Borough Seal)