

ORDINANCE NO. 350

AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, AMENDING 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 the failure to maintain non-owner-occupied dwelling 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 amendment 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 Part 5, in its entirety, to create a more consistent and readable ordinance, and to provide for enforcement and remedies when a unit fails and inspection and fails to pass a re-inspection by the date noted on the Inspection Report.

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 the Code of the Borough of Middleburg, is amended in its entirety as follows:

PART 5

PERMITS AND INSPECTIONS OF RENTAL PROPERTIES

§5-501. Legislative Findings and Purpose. (Ord. 320, 8/13/2013)

1. The Borough 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. Therefore, the Borough Council finds it to be desirable and in the public interest to enact the following provisions.

2. The purpose of this Part 5 and the policy of the Borough of Middleburg shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to residential rental units in the Borough, and to encourage owners and occupants to maintain and improve the quality of rental units within the community. As a means to these ends, this Part 5 provides for regular inspection and permit program for rental units and penalties for noncompliance.

§5-502. Definitions. (Ord. 320, 8/13/2013)

The following words and phrases, as used in this Part 5, shall have the meanings ascribed to them in this section, unless the context indicates a different meaning. Where terms are not defined in this section, such terms shall have ordinarily accepted meanings as interpreted by the Code Official by use of definitions provided in the codes and standards as contained in the Codified Ordinances of the Borough of Middleburg.

BOROUGH – The Borough of Middleburg

BOROUGH CODE or CODIFIED ORDINANCES OF THE BOROUGH OF MIDDLEBURG – The official Code book of the Borough of Middleburg and all the local, legally binding codes, standards and ordinances governing the Borough.

BUILDING – Any structure occupied or intended for supporting or sheltering any occupancy. For application of this Part 5, each portion of a building, which is completely separated from other portions by fire walls complying with the Building Code shall be considered as a separate building.

CODE – Any code or ordinance adopted, enacted and/or in effect in the Borough of Middleburg concerning fitness for habitation or the construction, maintenance, operation, occupancy, use or appearance of any buildings, structure and/or lots of ground regulated by this Part 5.

BOROUGH COMPLIANCE CHECKLIST – A report to be completed and signed by the owner if a change in tenant occurs after a rental unit inspection

is completed and all inspection issues are resolved but prior to the next required rental inspection date.

CODE OFFICIAL – The person or persons authorized by the Borough to determine compliance with the provisions of this Part and to enforce the same, including, without limitation, the Borough Zoning Officer and Property Code Officer as appointed or employed from time to time.

DWELLING UNIT – A single unit providing complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

INSPECTION REPORT – A report prepared by the Code Official as a result of a rental unit inspection, which details whether the rental unit complies with all the provisions of applicable laws, regulations and codes.

MULTI-DWELLING UNIT – Any building containing one or more dwelling units, which provide for complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

OCCUPANCY – The purpose for which a building, or portion thereof, is used.

OWNER – Any person, agent, operator, firm, corporation, partnership, limited liability company, limited liability partnership, association, other entity, property management group, or fiduciary holding or having legal, equitable or other interest in any real property or otherwise having control of executor or administrator of such person's estate. When used in this Part in a clause proscribing any activity or imposing a penalty, the term as applied to corporations, partnerships, limited liability companies, limited liability partnerships, associations, other entities, or property management groups shall include each and every member, shareholder, partner (limited or general), director, officer and other individual having an interest in the entity, controlling or otherwise. This term shall not include a tenant.

PREMISES or PROPERTY – A lot, plot or parcel of land, including any structures thereon.

PROPERTY OWNER – The person listed as the owner of such real estate property as named on any title, deed, Snyder County tax record or Middleburg Borough tax records.

PROPERTY OWNER OCCUPIED PORTIONS OF RENTAL PROPERTIES – Areas or portions of a rental property that are used or occupies primarily by the property owner.

RAPID-ENTRY KEY SYSTEM – A system approved by the Code Official or the Emergency Management Coordinator of the Borough that provides emergency access to a property for the Fire Department only in the event of a fire, rescue or other potentially life-threatening or property-threatening situation. The system consists of a rapid-entry key box and/or a rapid-entry padlock. The system is not to be used for any unlawful entry to the property or for the purpose of performing inspections without proper consent unless the owner is present and consents to such inspection or unless a legal search warrant has been issued.

RENTAL AGREEMENT – A legal agreement between the owner and tenant embodying the terms and conditions concerning the use and occupancy of the rental unit.

RENTAL PERMIT – A document issued by the Code Official to the property owner of a rental unit under this Part 5, which is required for the lawful rental and occupancy of any rental dwelling, buildings or structures.

RENTAL PROPERTY – A premises, property or portion of either that contains one or more rental units.

RENTAL UNIT – Any dwelling unit that is not occupied by the property owner, unless the occupant is a parent, child or grandchild of the property owner.

TENANT – Any individual that occupies a rental unit.

§5-503. Unlicensed Rental Unit Prohibited. (Ord. 320, 8/13/2013)

It shall be unlawful for the owner of any dwelling to operate the dwelling, or any part of it, as a rental unit, or to represent to the general public that the dwelling, or any part of it, is available for occupancy as a rental unit, unless the owner has a rental permit issued by the Code Official in the name of the property owner for the specific rental unit.

§ 5-504. Rental Permit Issuance; Term. (Ord. 320, 8/13/2013)

The property owner of each rental property shall be issued a rental permit for each rental unit once all the provisions of this Part 5 have been met. A separate permit shall be issued for each rental unit. The permit shall be valid for one (1) year.

§5-505. Rental Property Information. (Ord. 320, 08/13/2013)

1. The owner shall provide the following information to the Code Official via completion of a Rental Permit Application:
 - A. The name, address, phone number(s) and email address, if available, of each owner and/or local designated agent of the premises.
 - B. The address of the premises.
 - C. The owner will complete a separate rental permit application for each rental unit.
 - D. The name, phone number and email address of each occupant of the rental unit and address of the unit he/she occupies.
 - E. If the rental is a multi-unit rental, then a layout showing the location of each dwelling unit within each building on the premises and the interior floor plan of each dwelling unit must be supplied.
2. The owner shall update the Code Official with fifteen (15) calendar days of any change in the occupant information and complete/sign a Borough Compliance Checklist. If the owner fails to notify the Code Official within fifteen (15) days, the Code Official may take the appropriate recourse under Section 5-15, Remedies and Section 5-18, Violations and penalties.

§ 5-506. Local Agent Designation. (Ord. 320, 8/13/2013)

1. The owner shall designate a local agent who:
 - A. Lives within forty (40) miles of the Borough; and
 - B. Can provide access to all areas of the rental property for the purpose of:
 - (1) Inspections as necessary under this Part 5; and

- (2) Access by emergency personnel during any fire, medical or other emergency.
2. The owner shall provide to the Code Official the name, mailing address, actual street address and telephone number(s) of the local agent.
3. Exception. The local agent referred to in this section may reside more than forty (40) miles and up to one hundred (100) miles from the Borough of Middleburg if the owner provides a rapid-entry key system as approved by the Code Official.
4. The owner may serve as the local agent if the owner complies with this section.
5. The Code Official shall determine whether a proposed local agent satisfies the requirements of this section.
6. The owner of the rental property shall notify the Borough of any change in the identity of the local agent with fifteen (15) calendar days of the change.

§ 5-507. Verification of Rental Unit Compliance. (Ord. 320, 8/13/2013)

1. The owner shall provide verification that each rental unit complies with all the provisions of applicable laws, regulations and codes. This verification shall be accomplished by either:
 - A. Written certification from a Pennsylvania-licensed architect or Pennsylvania-licensed engineer that states that each rental unit complies with all the provisions of applicable laws, regulations and codes; or
 - B. An inspection conducted, at the request of the owner, by the Code Official to ascertain compliance with this Part 5 and all applicable laws, regulations and codes. The owner shall pay for the cost of the inspection in accordance with the applicable fee schedule, which Council shall establish by periodic resolution.
2. If a rental does not comply with all applicable laws, regulations and codes, the certification or inspection report, as applicable, shall specify the manner in which and laws, regulations and codes with which each unit fails to comply.

3. A rental permit shall not be issued or renewed until verification of rental unit compliance is achieved by one of the methods listed in this section.

§ 5-508. Fees. (Ord. 320, 8/13/2013)

The owner shall pay a fee for each inspection to the Code Official at the time of inspection. The rental permit fee is billed quarterly via the water/sewer billing for the rental unit. The fees for inspection and rental permits shall be established by periodic resolution of Borough Council.

§ 5-509. Annual permit renewal. Inspections. (Ord. 338, 4/19/2019)

- A. Annual permit renewal. All rental permits shall be renewed by the first day of February of each calendar year. The issuance of an annual rental permit does not restrict the requirement for a rental inspection pursuant to Paragraph B below, or the Code Official's ability to revoke the rental permit should the Code Official determine that a violation exists. The permit shall be valid for one calendar 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. All units which fail an inspection and pass a re-inspection by the date noted on the Inspection Report shall continue the three (3) year inspection cycle with the goal of safety having been achieved.
 2. All units which fail inspection and do not pass a re-inspection by the date noted on the Inspection Report shall be considered in violation of this ordinance and the Code Enforcement Officer shall take recourse pursuant to Section 5-15, Remedies and Section 5-18, Violations and penalties provided.
- 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 permit year all current property owners of any rental unit change, then the *permit* 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(s) must complete a Code Compliance Checklist and update the new tenant information as provided in Section 5-505.2.

§ 5-510. Change in Property-Owner-Occupied Portions, Notification. (Ord. 320, 8/13/2013)

1. The owner shall notify the Code Official, in writing, of any change of a portion of a dwelling from property-owner-occupied to non-property-owner-occupied, which transform that portion of the dwelling into a rental unit. The property owner must complete a Rental Permit Application per Section 5-505, Rental Property Information.
2. The owner shall comply with the provisions of this Part 5 not less than thirty (30) calendar days before the projected date of rental unit occupancy.
3. The rental permit shall be valid for the remainder of the permit year, unless the permit is issued within ninety (90) days prior to the annual renewal date, in which case it shall be valid for the remainder of the permit year, plus the following permit year.

§ 5-511. Scope of Inspections; No Warranty or Guaranty. (Ord. 320, 8/13/2013)

1. Neither the Borough of Middleburg nor any employee thereof assumes liability for the accuracy or quality of any inspection report regarding the condition of any property inspected pursuant to this Part 5 at the request of the owner.
2. The issuance of any rental permit, certificate or approval under this Part 5 shall not be construed to represent any warranty or guaranty by or on behalf of the Borough of Middleburg, including that the property is:
 - A. Completely safe or free of any dangers or hazards to occupants or general public.
 - B. Completely free and clear of any violations of this Part 5 or any other codes.

- C. Completely free and clear of any defects related to any structural, fire protection, fire prevention, building utilities or any other features of the property.

§ 5-512. Additional Owner Responsibilities. (Ord. 320, 8/13/2013)

1. It shall be the duty of every owner to maintain all rental units in compliance with all applicable codes and ordinances of the Borough.
2. The owner shall not knowingly permit others in a rental unit to:
 - A. Engage in any conduct declared illegal under the Pennsylvania Crimes Code (see 18 PA.C.S.A. § 101 et seq.) or Liquor Code (see 47 P.S. § 1-101 et seq.) or Controlled Substance, Drug, Device and Cosmetic Act (see 35 P.S. § 780-101 et seq.).
 - B. Use the rental unit in violation of the Borough Code.

§ 5-513. Rental Agreement. (Ord. 320, 8/13/2013)

1. The owner and tenant may not include any terms or conditions in the rental agreement, which are prohibited by this Part 5 or other applicable ordinances, regulations or laws.
2. Except as otherwise provided by this Part 5, no rental agreement may provide that the owner or tenant agrees to waive or forego rights or remedies under this Part 5. A provision prohibited by this subsection included in the rental agreement is hereby declared unenforceable and shall be grounds for denial of any approvals, certificates or permits requested or required under this Part 5.

§ 5-514. Interpretation; Conflict of Laws. (Ord 320, 8/13/2013)

In interpreting and applying the provisions of this Part 5, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare. Where the provisions of this Part 5 impose greater restrictions than those of any other ordinances or regulation, the provisions of this Part 5 shall control. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Part 5, the provisions of such statute, other ordinance or regulation shall control.

§ 5-15. Remedies (Ord. 320, 8/13/2013 & Ord. 338, 4/9/2019)

- 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 uninhabitable, the Code Official may revoke the rental permit.
- 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 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. The cost of such inspection will be the burden of the property owner.
 - 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.

§ 5-516. Requirements Not Covered by Chapter. (Ord. 320, 8/13/2013)

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare of the occupants, not specifically covered by this Part 5, shall be determined by the Code Official in accordance with all other applicable codes and laws.

§ 5-517. Appeals and Modifications. (Ord. 320, 8/13/2013)

The owner may appeal a decision of the Code Official to the Board of Appeals by submitting written notice of appeal to the Borough Administrator within thirty (30) days of the date of the decision by the Code Official.

§ 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 \$300 nor more than \$1,000 or imprisoned not more than thirty (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.

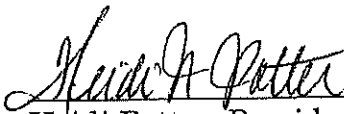
Section 5. The requirements of this chapter shall take effect five (5) days after enactment by the Borough.

DULY ENACTED AND ORDAINED this 11th day of August 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.

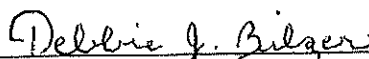
ATTEST:

BOROUGH OF MIDDLEBURG:


Elizabeth Paige, Secretary/Treasurer

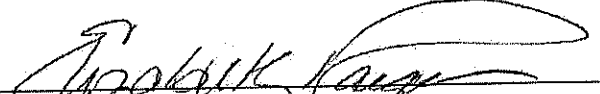
BY: 
Heidi Potter, President

APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG,
SNYDER COUNTY, PENNSYLVANIA, THIS 11TH DAY OF AUGUST 2020.


Debbie Bilger, Mayor

CERTIFICATE OF ADOPTION

AND NOW, this this 11th day of August 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 August 11, 2020, at which time a quorum was present.


Elizabeth Paige, Secretary/Treasurer

CERTIFICATE OF PREPARATION

AND NOW, this this 11th day of August 2020, 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 August 11, 2020.


Beau A. Hoffman, Solicitor