

ORDINANCE NO. 351

AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 7, PART 2 OF THE BOROUGH CODE WHICH RESTRICTS AND REGULATES OUTDOOR FIRES WITHIN THE BOROUGH, AMENDING THE DEFINITION OF BURN CONTAINER AND CREATING A PERMITTING PROCESS FOR PUBLIC DEMONSTRATIONS

WHEREAS, the Council of the Borough of Middleburg believes that outdoor burning can be detrimental to the physical, mental and social well-being of the residents of the Borough of Middleburg as well as to their comfort, living conditions, general welfare and safety and that outdoor burning is therefore a public health and welfare hazard if not properly restricted and regulated;

WHEREAS, the Council of the Borough of Middleburg believes that the existing Ordinance, which restricts and regulates outdoor burning, is in the best interests of the health, safety and welfare of the residents of the Borough of Middleburg;

WHEREAS, the Council of the Borough of Middleburg recognizes that certain forms of burning have been deemed as constitutionally protected forms of First Amendment speech, and the Borough intends to adopt a permitting requirement for such burns to protect and preserve the health, safety and welfare of the residents of the Borough of Middleburg.

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, as follows:

Section 1. Chapter 7, Part 2 of the Borough Code is amended as follows:

...

BURN CONTAINER - Any noncombustible container or enclosure used to dispose of materials through burning which does not contain holes greater than one inch and which is covered by a wire mesh or other noncombustible cover to prevent fly ash from escaping into the atmosphere.

...

Section 7-206 – Public Demonstrations

- A. Any person desiring to conduct a public demonstration involving the burning of flags or other items in the Borough of Middleburg shall make application to the Borough office for a permit therefor on a form made available by the Borough for such purpose. No fee shall be charged to make such application.
- B. The Borough shall decide any application for issuance of a permit for any demonstration involving the burning of a flag or other item for the proposed date if application is made therefor at least two business days immediately preceding the date of the proposed demonstration.
- C. Any permit as issued shall be subject to the following terms:
 - 1. The permittee must ensure that an operable fire extinguisher will be present at the proposed demonstration at all times.
 - 2. No permittee shall burn a flag or other item exceeding four feet by six feet in area.
 - 3. No permittee shall burn any item except directly in a burn container.
 - 4. No permittee shall leave the scene of a demonstration without ensuring that any fire started as part of the demonstration has been fully extinguished.

Section 7-207 – Penalties

Any person who violates any provision of this Ordinance shall be sentenced:

- A. Upon the conviction of a first violation, to pay a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) and costs of prosecution, and in default of payment of such fines and costs, to imprisonment for not more than 30 days.
- B. Upon conviction for second or subsequent violation, to pay a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) and costs of prosecution, and in default of payment of such fines and costs, to imprisonment for not more than 90 days.

Each day that a violation continues after notice of the violation has been served shall be deemed to be a separate offense.

Section 7-208 – Enforcement

The provisions of this Ordinance shall be enforced by the Borough Police or by civil action or both as the Borough may elect.

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. The remainder of Chapter 7, Part 2 of the Borough Code not amended hereby shall remain in full force and effect.

Section 4. 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.

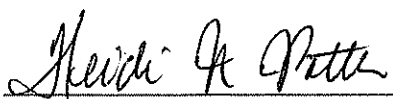
Section 5. This ordinance shall become effective five (5) days after passage.

DULY ENACTED AND ORDAINED this 10th day of November, 2020, by the Council of the Borough of Middleburg, Snyder County, Pennsylvania, in lawful session duly assembled, after public hearing following proper notice of its intent to consider adoption of this Ordinance.

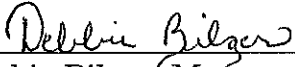
ATTEST:

BOROUGH OF MIDDLEBURG:


Elizabeth Paige, Administrator

BY: 
Heidi Potter, President

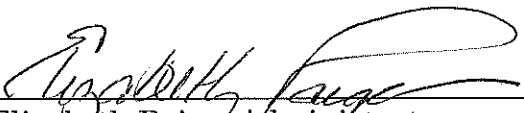
APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, THIS 10th DAY OF NOVEMBER, 2020.



Debbie Bilger, Mayor

CERTIFICATE OF ADOPTION

AND NOW, this 10th day of November, 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 November 10, 2020, at which time a quorum was present.


Elizabeth Paige, Administrator

CERTIFICATE OF PREPARATION

AND NOW, this 10th day of November, 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 November 10, 2020.


Beau A. Hoffman, Solicitor

Borough of Middleburg

Public Demonstration Burn Application

Applicant Information

Full Name: _____ Date: _____
Last First M.I.

Address: _____
Street Address Apartment/Unit #

City State ZIP Code

Phone: _____ Email _____

Date of burn: _____

Location of burn: _____

An operable fire extinguisher will always be present YES NO

No item will be burned that is larger than 4x6 ft. YES NO

The burn will only occur in a burn container* YES NO

You will be present during the entire burn YES NO

You will not leave until the fire has been completely extinguished YES NO

If the answer to any of these questions is, "no", the permit will be denied.

* A burn container is any noncombustible container or enclosure used to dispose of materials through burning which does not contain holes greater than one inch and which is covered by a wire mesh or other noncombustible cover to prevent fly ash from escaping into the atmosphere.

Disclaimer and Signature

I certify that my answers are true and complete to the best of my knowledge. I understand that false or misleading information in my application may result in a citation being issued against me.

Signature: _____ Date: _____