

ORDINANCE NO. 2022-358

AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, AMENDING CHAPTER FIFTEEN, PART TWO HUNDRED AND THIRTEEN (§ 15-213) OF THE MIDDLEBURG BOROUGH CODE REGARDING ENGINE SUPPRESSION, BRAKE RETARDERS AND ENGINE BRAKES.

WHEREAS, the Council of the Borough of Middleburg, pursuant to its authority under the Pennsylvania Borough Code, 8 Pa.C.S. §101, *et. seq.*, may regulate the streets within the Borough and impose penalties related thereto to promote the health, safety and welfare of the citizens of the Borough of Middleburg; and

WHEREAS, pursuant to the Pennsylvania Motor Vehicle Code §4103, a municipality can enforce an engine suppression, brake retarder, or engine brake ordinance at a specific location if it has received authorization from the Pennsylvania Department of Transportation (hereinafter “PennDOT”); and

WHEREAS, the Council of the Borough of Middleburg has pursued the prohibition of engine suppression, brake retarder, and engine brakes on SR 3008 (Paxtonville Road) from the Middleburg Borough municipal boundary to the SR 104 intersection and, as of June 8, 2021, received authorization from PennDOT to do so, after PennDOT performed a traffic study and determined that all criteria under the Pennsylvania Motor Vehicle Code were satisfied; and

WHEREAS, the Council of the Borough of Middleburg has proposed amending Chapter Fifteen, Part Two Hundred and Thirteen, “Engine Suppression/Brake Retarder/Engine Brake” to prohibit such devices on SR 3008 (Paxtonville Road) from the Middleburg Borough municipal boundary to the SR 104 intersection; and

WHEREAS, the Council of the Borough of Middleburg believes that this amendment will protect the welfare of the Borough and, in particular, the property owners along SR 3008.

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:

Section 1: Chapter 15 Motor Vehicle and Traffic, Part 2, Traffic Regulations, Section 15-213 of the Code of the Borough of Middleburg is amended and replaced, in its entirety, as follows:

§15-213. Engine Suppression/Brake Retarder/Engine Brake.

1. Short Title. This section shall be known as the "Middleburg Borough Engine Suppression/Brake Retarder/Engine Brake Ordinance."

Legislative Intent. The Borough Council of the Borough of Middleburg, Snyder County, Pennsylvania, finds as a fact that the operation of an engine brake or an engine suppression device of a compression brake on a gasoline-powered or diesel-powered motor vehicle so as to create excessive noise through the use of said engine brakes or engine suppression device or a compression brake, adversely affects the public health, safety and welfare of the residents of the Borough of Middleburg .

2. Engine Brakes Prohibited. No gasoline-powered or diesel-powered motor vehicle shall be operated on the streets, roads, alleys or highways listed below within the Borough of Middleburg, Snyder County, Pennsylvania, utilizing in said operation an engine brake, engine suppression device or compression brake permitting excessive noise to be created by said motor vehicle.
3. Streets. The streets subject to this prohibition shall be as follows:
 - A. SR 104, consisting of North Main Street, Main Street, South Main Street, East Main Street and Wassau Road.
 - B. SR 522, consisting of East Main Street, Main Street, South Main Street and West Market Street.
 - C. Railroad Avenue.
 - D. East Market Street.
 - E. SR 3008, also known as Paxtonville Road, from the Middleburg Borough municipal boundary to the SR 104 intersection.
4. Emergency Situations. This section shall not apply to emergency driving situations requiring the utilization of an engine brake to protect the safety and property of the residents of Middleburg Borough, other motor vehicle operators, pedestrians and the operator and passengers of the motor vehicle involved in said emergency situation.
5. Penalty. Any person, firm, corporation or organization violating any of the provisions of this section shall, upon summary conviction before a District Magistrate having jurisdiction, be sentenced to pay a fine of not less than

\$50 or more than \$300 and costs of prosecution and, in default of the payment thereof, shall be sentenced to undergo imprisonment in the Snyder County Jail for a period not to exceed 10 days.

Section 2: Saving Clause. Nothing in this Part shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this part.

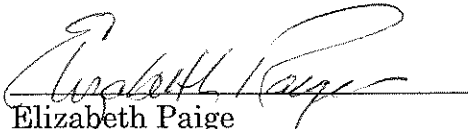
Section 3: Severability. If any section, subsection, sentence, clause or phrase of this Part is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Part. The Borough of Middleburg hereby declares that it would have passed this Part, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentences, clauses and phrases be declared unconstitutional.

Section 4: Date of Effect. This Part and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately from and after the date of its final passage and adoption in accordance with laws and regulations.

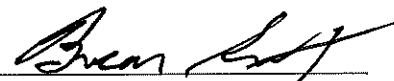
Section 5: Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent that they are in conflict herewith.

DULY ENACTED AND ORDAINED this 12th day of April, 2022, 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
(Middleburg Borough Seal)

BOROUGH OF MIDDLEBURG:

By: 
Brian Swartz, President

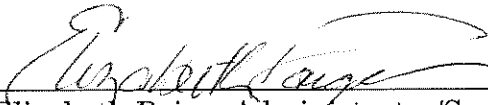
APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG,
SNYDER COUNTY, PENNSYLVANIA, THIS 12TH DAY OF APRIL 2022.



Heidi Potter, Mayor

CERTIFICATE OF ADOPTION

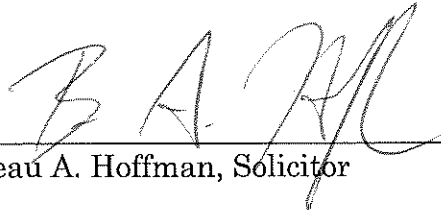
AND NOW, this 12th day of April 2022, I hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Borough Council of the Borough of Middleburg, Snyder County, Pennsylvania, at a properly called and duly advertised meeting held on April 12 2022 at which time a quorum was present.



Elizabeth Paige, Administrator/Secretary
(Middleburg Borough Seal)

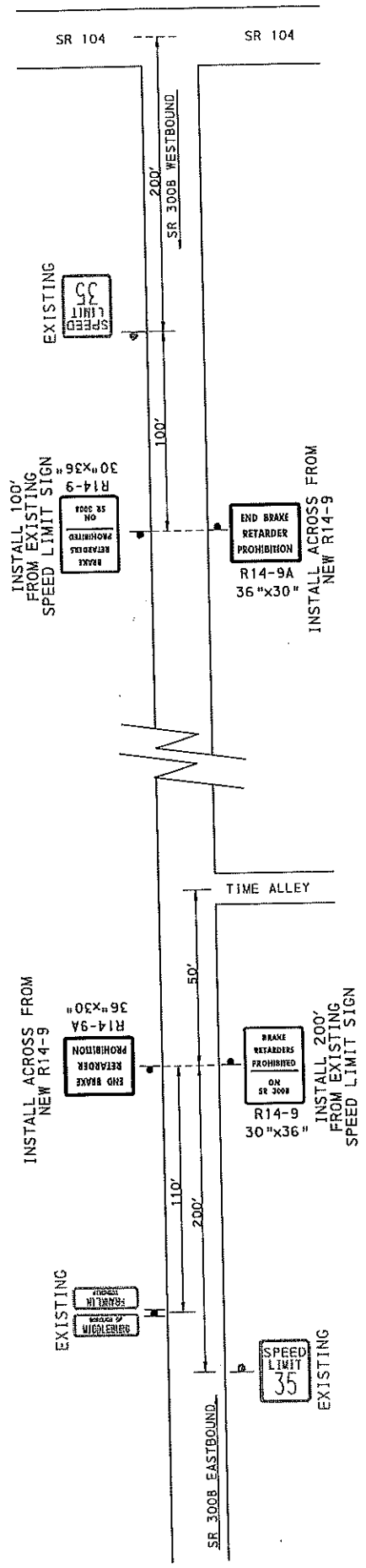
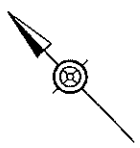
CERTIFICATE OF PREPARATION

AND NOW, this 12th day of April 2022, 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 12, 2022.



Beau A. Hoffman, Solicitor

SNYDER COUNTY
 MIDDLEBURG BOROUGH
 SR 3008 (PAXTONVILLE ROAD)
 ENGINE BRAKE RETARDER
 PROHIBITION SIGNING



NOT TO SCALE