

ORDINANCE NO. 2022 - 360

AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG, SNYDER COUNTY, PENNSYLVANIA, AMENDING PART 5 OF CHAPTER 5 OF THE BOROUGH CODE WHICH REGULATES RENTAL UNITS, SECTIONS 5-502 THROUGH 5-511 BY PROVIDING A NEW METHOD OF COLLECTING THE ANNUAL RESIDENTIAL RENTAL APPLICATION/PERMIT FEE AND TO REDUCE THE TIME WITHIN WHICH TO APPEAL TO WITHIN 20 DAYS OF DECISION.

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 Sections 5-502 through 5-511 to create a new method for collecting the annual Residential Rental Application/Permit fee now that it will no longer be billed on the property owner's water/sewer bill through the Middleburg Municipal Authority; and

WHEREAS, the Council intends to amend Part 5 Section 5-517 to reduce the deadline to appeal to 20 days from the date of the decision by the Code Official; and

NOW, THEREFORE, pursuant to the authority in 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 as follows:

PART 5

PERMITS AND INSPECTIONS OF RENTAL PROPERTIES

[...]

§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.

[...]

RESIDENTIAL RENTAL APPLICATION/PERMIT – A form supplied by the Borough and submitted by 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 residential premises, property or portion of either that contains one or more rental units.

RENTAL UNIT – Any residential dwelling unit that is not occupied by the property owner, unless the occupant is a parent, child or grandchild of the property owner, which is rented on a minimum of a monthly basis.

§5-503. Unlicensed Rental Unit Prohibited. (Ord. 320, 8/13/2013; amended by Ord. No. 350, 8/11/2020)

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 submitted a Residential Rental Application/Permit to the Borough in the name of the property owner for the specific rental unit.

§ 5-504. Residential Rental Application/Permit Term. (Ord. 320, 8/13/2013; as amended by Ord. No. 350, 8/11/2020)

The property owner of each rental property shall submit a Residential Rental Application/Permit for each unit along with the annual rental fee. The Residential Rental Application/Permit shall be valid for one (1) calendar year.

§5-505. Rental Property Information. (Ord. 320, 08/13/2013 as amended by Ord. No. 350, 8/11/2020)

1. The owner shall provide the following information to the Borough via completion of a Residential Rental Application/Permit:
 - 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 Residential Rental Application/Permit for each rental unit.
 - D. The name and phone number of each occupant of the rental unit.
 - 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 Borough 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 Borough 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; as amended by Ord. No. 350, 8/11/2020)

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 Borough 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; as amended by Ord. No. 350, 8/11/2020)

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 Residential Rental Application/Permit shall not be 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; as amended by Ord. No. 350, 8/11/2020)

The owner shall pay a fee for each inspection to the Code Official at the time of inspection. The annual Residential Rental Application/Permit fee must be paid upon submission to the Borough. The fees for inspection and Residential Rental Application/Permit shall be established by periodic resolution of Borough Council.

§ 5-509. Annual permit renewal. Inspections. (Ord. 320, 8/13/2013; as amended by Ord. 338, 4/19/2019; and by Ord. No. 350, 8/11/2020)

1. Annual application/permit renewal. All Residential Rental Application/Permit shall be renewed by the first day of February of each calendar year, otherwise a late fee of \$20.00 shall be imposed. If the fees are not paid by first day of March of that calendar year, the Residential Rental Application/Permit shall be revoked. The submission of an annual Residential Rental Application/Permit does not restrict the requirement for a rental inspection pursuant to Paragraph B below, or the Code Official's ability to revoke the Residential Rental Application/Permit should the Code Official determine that a violation exists.

2. Inspection. Residential rental unit inspections shall be completed by the last day in June of the calendar year in which an inspection is required, as determined below:

A. 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.

B. 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.

3. The Code Official shall record the inspection findings on a written Inspection Report.

4. Transfer of property ownership. If at any time during the Residential Rental Application/Permit year all current property owners of any rental unit change, then the Residential Rental Application/Permit shall expire, and the new property owner(s) shall comply with all provisions of this

chapter. If this transfer occurs within 90 days prior to the annual renewal date, the application/permit shall be valid for the remainder of the calendar year, plus the following calendar year.

5. 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; as amended by Ord. No. 350, 8/11/2020)

1. The owner shall notify the Borough, in writing, of any change of a portion of a dwelling from property-owner-occupied to non-property-owner-occupied, which transforms that portion of the dwelling into a rental unit. The property owner must complete a Residential Rental Application/Permit per Section 5-505, Rental Property Information and make payment of the annual rental fee per Section 5-508, Fees.
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 Residential Rental Application/Permit shall be valid for one (1) calendar year, unless the application/permit is submitted with 90 days prior to the annual renewal date, in which case the application/permit shall be valid for the remainder of the calendar year, plus the following calendar year.

§ 5-511. Scope of Inspections; No Warranty or Guaranty. (Ord. 320, 8/13/2013; as amended Ord. No. 350, 8/11/2020)

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 Residential Rental Application/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.

§ 5-517. Appeals and Modifications. (Ord. 320, 8/13/2013; as amended by Ord. No. 350, 8/11/2020)

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 20 days of the date of the decision by the Code Official.

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 October 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

BOROUGH OF MIDDLEBURG:

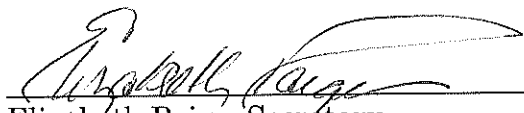
BY: 
Brian Swartz, President

APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG,
SNYDER COUNTY, PENNSYLVANIA, THIS 11TH DAY OF OCTOBER 2022.


Heidi Potter, Mayor

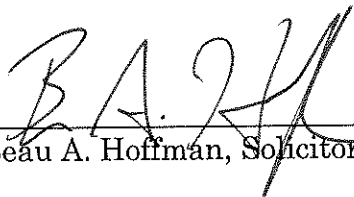
CERTIFICATE OF ADOPTION

AND NOW, this this 11th day of October 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 October 11th, 2022, at which time a quorum was present.


Elizabeth Paige, Secretary

CERTIFICATE OF PREPARATION

AND NOW, this this 11th day of October 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 October 11, 2022.


Beau A. Hoffman, Solicitor