

ORDINANCE NO. 2023 - 364

AN ORDINANCE OF MIDDLEBURG BOROUGH, SNYDER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 21, PART 2 OF THE MIDDLEBURG BOROUGH CODE REGULATING MAINTENANCE OF SIDEWALKS AND CURBS TO CLARIFY THAT CURBS ARE REQUIRED ALONG ALL REQUIRED SIDEWALKS AND TO ADOPT AN APPROVED CONTRACTOR LIST TO BE MAINTAINED BY THE BOROUGH ADMINISTRATOR.

WHEREAS, the Middleburg Borough Council, in order to advance the welfare and safety of the residents of the Borough and such other persons who use the sidewalks in the Borough, deems it necessary to adopt an Ordinance amending the Middleburg Borough Code Chapter 21, Part 2, regulating Maintenance of Sidewalks and Curbs to clarify that curbs are required along any required sidewalk and to adopt an approved contractor list which will be maintained by the Borough Administrator.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Middleburg, Snyder County, Pennsylvania, as follows:

Chapter 21, Part 2 Maintenance of Sidewalks and Curbs of the Code of the Borough of Middleburg is amended as follows:

Maintenance of Sidewalks and Curbs.

§21-201. Compliance Required

The owner or owners of any lot or lots in the Borough with sidewalks in the public right of way shall maintain such sidewalks and curbs in a safe and passable condition, free of tripping hazards and obstructions. The said owner or owners shall repair any defects in such sidewalks and curbs and remove any obstructions, which make them unsafe or impassable to pedestrians. In some cases, this will also include the curbs of said properties, if they do not have existing curbs or if the existing curbs are not compliant with the design standards contained herein.

§21-202. Maintenance Obligation

The obligation of maintenance shall include but not be limited to:

1. Repair of holes, and repair of cracks having a width in excess of ½ inch at any one point along a length of one foot or greater.

2. Maintenance of a constant grade.

a. Repair shall be made when one or more sections of the sidewalk rises above or drops below the grade of the edges of immediately adjacent sections resulting in an irregular surface with depression greater than ½ inch in depth.

b. Repair shall be made when the curb is out of vertical alignment with the adjacent curb or an adjacent section or slab of sidewalk in excess of ¾ inch.

c. Repair shall be made when the curb is out of horizontal alignment with the adjacent curb in excess of ½ inch.

3. Repair of any section of sidewalk that has spalling on twenty-five percent (25%) or more of its surface. For purposes of this Section, "spalling" is defined as cracking, breaking, flaking, or otherwise chipping that results on the surface of the sidewalk.

4. The removal of leaves, tree limbs, grass clippings, debris, cinders, gravel, grits, or any other refuse on such sidewalk or projecting branches and other obstructions below six (6) feet, eight (8) inches above the sidewalk. The property owner shall be responsible for the prompt removal of any such items whether such items were deposited by the owner, his tenants, anyone acting under his direction, control, license or any third person. Such leaves, tree limbs, grass clippings, debris, cinders, gravel, grits and other refuse shall be properly bagged and disposed of upon being removed from such sidewalk. The sweeping or other removal of such items onto Borough streets or state highways is prohibited.

5. Curbs shall be installed anytime a sidewalk is being installed, repaired, or replaced and the sidewalk does not have a curb.

6. Repair of any other instance which may create a pedestrian safety hazard as determined by the Borough Engineer.

§21-203. Annual inspection

Once each year, the Borough shall have an inspection of all sidewalks and curbing in the Borough completed which identifies those properties not in compliance with the requirements of this Ordinance. The report shall include a brief description of each noncompliance and shall specify the required repairs. The Borough Secretary shall then give the report to Council at the next regularly scheduled meeting and send out notices to the property owners requiring said repairs.

§21-204. Property owner to repair; time limits

Every owner of property in the Borough shall, on sixty (60) days' notice, repair the sidewalk or curbing, or both, in the manner stipulated in such notice, in front of or alongside such property. If the sixty (60) days concludes after November 15, then said repairs shall be made on or before April 30 of the following year of said notice. However, where a condition exists of an emergency nature, such repairs shall be made within ninety-six (96) hours of said notice.

§21-205. Construction and repair on initiative of property owners

Any property owner, upon their own initiative and without notice from any borough authority, may repair a sidewalk or curbing along their property, provided that such owner shall have obtained the permits specified in this Ordinance and shall do such repairs in accordance with the requirements of this Ordinance as well as the attached exhibits.

§21-206. Construction and Maintenance specifications

No monolithic construction, repairs or other maintenance is permitted of sidewalks and curbs. Curbs must be poured separately. All designs, construction, repairs or other maintenance required shall be performed in accordance with the specifications set forth in this Ordinance as well as the attached exhibits, listed below. In general, the PennDOT Construction Standards should be followed for the Documents from PennDOT Publication 408, latest edition and amendments and the details shown in the Exhibits as part of this Ordinance.

Exhibits include:

- A. Concrete walk
- B. Concrete curb and walk
- C. Concrete walk in driveways
- D. Concrete curb cut in driveways
- E. Concrete curb installation in existing pavement
- F. Plain cement concrete curb
- G. Expansion and control joints

§21-207. Permit required

A permit shall be obtained from the Borough before doing any required repairs or maintenance. The applicant shall submit the application and the information requested on the form of application to the Borough.

§21-208. Approved contractor list

Any repair, replacement, improvement or installation of sidewalks or curbs in the Borough must be done by a contractor on the Borough's approved contractor list. That list shall be kept by the Borough Administrator. A contractor may be added to the approved contractor list by contacting the Borough Administrator and proving, in the sole discretion of the Borough Administrator, that the contractor understands the specifications contained in this Ordinance. Nothing in this section shall be construed to prohibit a property owner from being added to the approved contractor list, provided that the property owner shall go through the same process outlined herein.

§21-209. Borough to act at expense of property owner

Upon failure of any owner of property in the Borough to repair any curb or sidewalk after notice has been given in accordance with this Ordinance, the Borough may cause the necessary repairs to be done at the expense of said owner and may collect the cost thereof and all additional charges, expenses and penalties as authorized, including but not limited to filing a municipal lien against the property.

§21-210. Violations and penalties

Any person who violates any of the provisions of this Ordinance shall, upon conviction in a summary proceeding before a District Justice of the Snyder County, be punishable by a fine of not more than three hundred dollars (\$300) and costs of prosecution for each and every offense or, upon default in payment of the fine and costs not caused by indigence or lack of sufficient assets, by imprisonment in the Snyder County Prison for a period not to exceed thirty (30) days. Each day that such violation is continued shall constitute a new and separate offense, punishable by like fine, penalty or imprisonment.

§21-211. Enforceability

This Ordinance shall be enforced by the Borough Secretary and the Borough police.

§21-212. Severability

If any section, subsection, sentence, clause or phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion thereof

§21-213. Repealer

All ordinances and parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

§21-214. Effective date

This Ordinance shall be effective five (5) days after enactment.

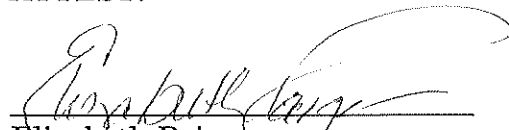
NOW THEREFORE, all ordinances and parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.


NOW THEREFORE, this Ordinance shall be effective five (5) days after enactment.

DULY ENACTED AND ORDAINED this 12th day of December, 2023, 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:

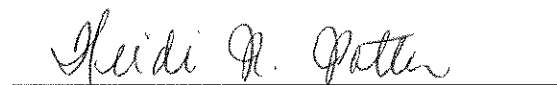
BOROUGH OF MIDDLEBURG:


Elizabeth Paige
Administrator/Secretary

By: 
Brian Swartz, President

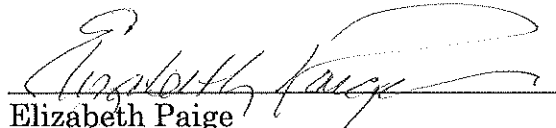
(Middleburg Borough Seal)

APPROVED AS AN ORDINANCE OF THE BOROUGH OF MIDDLEBURG,
SNYDER COUNTY, PENNSYLVANIA, THIS 12TH DAY OF DECEMBER, 2023.


Heidi Potter, Mayor

CERTIFICATE OF ADOPTION


AND NOW, this 12th day of December, 2023, 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 December 12, 2023, at which time a quorum was present.


Elizabeth Paige
Administrator/Secretary

(Middleburg Borough Seal)

CERTIFICATE OF PREPARATION

AND NOW, this 12th day of December, 2023, 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 December 12, 2023.


Beau A. Hoffman, Solicitor