

TO THE RESIDENTS OF THE BOROUGH OF MIDDLETOWN

Notice is hereby given that the Borough Council of the Borough of Middletown will consider for adoption the following Ordinance at the Regular Business Meeting on October 1, 2019 at 7 P.M. in the Council Chambers of Middletown Borough Council located at Borough Hall, 60 West Emaus Street, Middletown, PA 17057.

**ORDINANCE NO. 2019-1366**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MIDDLETOWN, DAUPHIN COUNTY, PENNSYLVANIA, PART II, GENERAL LEGISLATION, CHAPTER 164, GARBAGE, RUBBISH AND REFUSE, ARTICLE III, OPEN BURNING, TO REGULATE THE USE OF FIRE PITS, FIRE BOWLS AND CHIMINEAS WITHIN THE BOROUGH.**

**WHEREAS**, the Council for the Borough of Middletown (the “Borough”) has determined a need to regulate the use of fire pits, fire bowls, chimineas and similar devices within the Borough as a matter of public safety; and

**WHEREAS**, the use of fire pits, fire bowls, chimineas and similar devices has become increasing popular within the Borough; and

**WHEREAS**, the Borough staff has consulted the Middletown Volunteer Fire Department prior to taking steps to regulate the use of the aforementioned burning containers within the Borough; and

**WHEREAS**, the Borough has considered this amendatory ordinance to be in the best interest of Borough residents and those that protect persons and property within the Borough.

**NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED**, by the authority of the Borough Council of the Borough of Middletown, Dauphin County, Pennsylvania, that the Code of Ordinances of the Borough of Middletown, Part II, General Legislation, Chapter 164, Article III be amended as follows:

**SECTION 1.** The Code of Ordinances of the Borough of Middletown, Part II, General Legislation, shall be amended at Chapter 164, Garbage, Rubbish and Refuse, Article III, Open Burning, by amending and revising Section 164-19, Exceptions to read as follows:

§ 164-19 Exceptions.

A. This article shall not apply to the following activities which do not require a permit from the Fire Marshal or the Pennsylvania Department of Environmental Protection:

1. Open barbeque pits or devices of similar construction, whether they are of a permanent or temporary nature, when such pits or devices are used for the purpose of preparing food for human consumption; or

2. Fire pits, fire bowls, chimineas or similar portable devices, but only when the following requirements and conditions are met:
  - a. Any person operating a fire pit, fire bowl, chiminea or similar portable device must have permission from the land owner.
  - b. There must be one person at least 18 years of age present to assume responsibility for the use of these devices.
  - c. Appliances must be used in accordance with the manufacturer's instructions and guidelines. User instructions and guidelines shall be kept nearby for quick reference.
  - d. Use of fire pits, fire bowls, chimineas and similar portable devices must be a minimum of 15 feet away from any building or structure in all directions. All flammable material(s), *e.g.*, mulch, fabrics, firewood, etc., must be kept a minimum of three (3) feet in diameter around the appliance.
  - e. The use of fire pits, fire bowls, chimineas or similar portable devices on a balcony or deck is prohibited.
  - f. Use of only aged dried wood is allowed. The burning of any type of construction material or trash is prohibited.
  - g. The use of any type of flammable or combustible liquid at any time is prohibited.
  - h. A garden hose connected to a constant water source or extinguishing device must be stored close by, available and operational in the event of an emergency.
  - i. Smoke is not allowed to cross property lines. Users must be mindful of the wind speed prior to starting this type of fire.
  - j. Fire pits, fire bowls, chimineas and similar portable devices shall not be used on "Code Orange" or "Code Red" air quality days.
  - k. Users must dispose of all ashes in a safe manner. After 24 hours has passed, all left over hot ashes must be thoroughly dampened, cooled and stored in a metal can that is used solely for ash storage. The metal can should be a minimum of 5 feet from any structure. Ashes that are two (2) or three (3) days old may appear to be safe, but can still retain enough heat to cause an unwanted fire. Do not discard hot ashes in a compost pile, paper bag cardboard box or anything that is combustible.
  - l. Care and necessary precautions should be taken in handling partially burned wood. The wood may still be smoldering and could cause a serious burn.

B. The use of fire pits, fire bowls, chimineas or similar portable devices without taking the proper precautions, including but not limited to the requirements and conditions described above,

is strictly prohibited. If said use is determined by the Middletown Volunteer Fire Department to be hazardous, it may result in the fire being extinguished by the Fire Department.

**SECTION 2. SEVERABILITY.** If any section, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance or Chapter 164 of the Code of the Borough of Middletown as a whole, or any other section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance or Chapter 164 of the Code of the Borough of Middletown. Borough Council hereby declares that it would have adopted this Ordinance and each section, phrase and word thereof, irrespective of the fact that any one or more of those sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

**SECTION 3. REPEALER.** All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall become effective in accordance with applicable law.

**BE IT DULY ORDAINED AND ENACTED** into law this \_\_\_\_ day of \_\_\_\_\_ 2019, by the Borough of Middletown, Dauphin County, Pennsylvania, in lawful session duly assembled.

**BOROUGH COUNCIL OF THE  
BOROUGH OF MIDDLETOWN**