

**MIDDLETOWN BOROUGH
ORDINANCE NO. 2021 - 1378**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MIDDLETOWN, DAUPHIN COUNTY, PENNSYLVANIA, PART II, CHAPTER 101, ANIMALS, ARTICLE I, CONTROL OF DOGS, PROHIBITING THE RUNNING AT LARGE AND NOISE DISTURBANCE OF DOGS IN THE BOROUGH AND IMPOSING FEES FOR THE SHELTERING OF AT LARGE DOGS APPREHENDED BY THE BOROUGH, AND AMENDING ARTICLE II OF SUCH CHAPTER, REDEMPTION OF IMPOUNDED ANIMALS, TO CLARIFY THE IMPOSITION OF FEES FOR IMPOUNDING ANIMALS OTHER THAN DOGS.

WHEREAS, the Borough Council of the Borough of Middletown, Dauphin County, Pennsylvania, previously duly enacted Ordinance No. 342 for the control of dogs adopted on June 13, 1955, which was subsequently amended in its entirety by Ordinance No. 1022, adopted on September 9, 1991; and

WHEREAS, Borough Council, proposes to amend Article I of Chapter 101, relating to the Control of Dogs, by prohibiting the running at large of dogs and noise disturbance of dogs as well as imposing a fee on dog owners for the expense of sheltering at large dogs apprehended by the Borough, and amending Article II of such Chapter to clarify the imposition of fees for impounding animals other than dogs; and

WHEREAS, Borough Council, after due consideration of the proposed Ordinance Amendment at a public meeting, has determined that the health, safety, and general welfare of the residents of the Borough of Middletown will be served by the proposed Ordinance amendments.

NOW THEREFORE, it is hereby ordained by the Borough Council of the Borough of Middletown, Dauphin County, Pennsylvania, that Chapter 101 of the Code of Ordinances of the Borough of Middletown is amended as follows:

SECTION 1. Amendments to Part II, Chapter 101, Article I, Section 101-1, Running at large. The Code of Ordinances of the Borough of Middletown, Part II, Chapter 101, Article I, Section 101-1 shall be amended to read as follows with deleted language bracketed and stricken, and added language underlined:

§ 101-1. Running at large.

(a) No owner, custodian, handler, or keeper of any dog shall suffer or permit such dog to run at large in the Borough of Middletown, either upon the public streets [~~and highways of the Borough or upon the property of another~~], highways, public property, or any public right of way (i.e. public sidewalks and property between the curb and said sidewalks).

1. Nothing in this ordinance shall be construed to prohibit any owner, custodian, handler, or keeper of any dog from permitting such dog from having free

roam/access within the boundaries of property either owned or leased by said owner, custodian, handler or keeper, so long as the dog does not prevent the general public from accessing any public sidewalk(s) (including the area between the curb and sidewalk) by unwanted contact.

(b) No owner, custodian, handler, or keeper of any dog shall suffer or permit such dog to run at large or on leash/lead in the Borough of Middletown, on the property of another without the explicit permission of the property owner or lessee.

(c) A dog is considered to be “Running at Large” unless under the control of the owner, custodian, handler, or keeper by means of a proper leash or lead. When the owner, custodian, handler, or keeper is under the age of 18, the juvenile shall be of appropriate maturity and ability to keep said dog under control.

1. A dog will be considered under control when such dog is secured with a proper leash or lead, and is prevented from:
 - i. Making unwanted contact with other people, dogs or other animals;
 - ii. Attacking, biting or otherwise injuring another person, dog or animal;
 - iii. Damaging public property;
 - iv. Damaging property of another; and
 - v. Trespassing on private property, excluding areas open to public access or right of way.
2. A proper leash or lead is one that consists of reasonable construction, quality and condition to control the specific dog or dogs attached to it. The leash or lead must be attached to an appropriate and correctly fitting dog collar or harness designed and capable to control the specific dog’s size, weight and temperament. A leash designed to be used without a collar is permitted so long as all other criteria has been met.

(d) It shall be the duty of the Middletown Borough Police Department, or any other agent of the Borough, to seize, detain, and impound any dog, licensed or unlicensed, found running at large, either upon the public streets, highways, public property, or any public right of way of the Borough or on the property of any other person and unaccompanied by its owner, custodian, handler or a keeper.

1. **Seizure, Detention, and Costs.** In the event that a dog running at large is apprehended by the Middletown Borough Police Department or its agent and is sheltered by the Borough in any licensed kennel as a result of the inability of the Police Department to ascertain its owner, the owner of the dog, if subsequently ascertained, will be assessed a fee of \$50.00 and shall be responsible for the payment of all reasonable expenses incurred by reason of the dog’s detention prior to its release to the owner. Nothing in this section shall be construed to limit any other penalty imposed under this Chapter.

2. **Disposition of Licensed and Unlicensed Dogs.** The disposition of seized, detained, and impounded licensed and unlicensed dogs shall be in accordance with the same procedures as apply under the Pennsylvania Dog Law, 3 Pa. Stat. Ann. §§ 459-101 – 1205, *as amended*, which procedures are incorporated herein by reference.

SECTION 2. Amendments to Part II, Chapter 101, Article I, Section 101-3. The Code of Ordinances of the Borough of Middletown, Part II, Chapter 101, Article I, Section 101-3 shall be amended to read as follows with deleted language bracketed and added language underlined:

§ 101-3. Noise and disturbances.

- (a) No owner, custodian or keeper of any dog shall suffer or permit such dog to make any loud or harsh noise, alarm, or disturbance which shall interfere with or deprive the peace, quiet, rest or sleep of any person.
- (b) No owner, custodian or keeper of any dog shall suffer or permit such dog to cause annoyance, alarm, or noise disturbance for more than 15 minutes at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.

SECTION 3. Amendments to Part II, Chapter 101, Article II, Section 101-4. The Code of Ordinances of the Borough of Middletown, Part II, Article II, Chapter 101, Section 101-4 shall be amended to read as follows with deleted language bracketed and added language underlined:

§ 101-4. Fee.

Except as provided in Article I, Section 101-1 (d)(1) of this Chapter specifically with respect to dogs, whoever shall own an animal other than a dog impounded by the Borough in a kennel kept for that purpose, said owners shall pay to the Borough the sum of \$25 before the animal is released to the owner. The aforesaid payment shall be in lieu of any other penalty or payment for the care and feeding of said animal.

SECTION 4. 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 101 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 101 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 5. REPEALER. All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective in accordance with applicable law.

BE IT DULY ORDAINED AND ENACTED into law this ____ day of _____ 2021, by the Borough of Middletown, Dauphin County, Pennsylvania, in lawful session duly assembled.

**BOROUGH COUNCIL OF THE
BOROUGH OF MIDDLETOWN**

BY: _____
Ian Reddinger
Borough Council President

ATTEST:

Grace Miller
Borough Secretary

AND NOW THIS ____ day of _____, 2021, the foregoing Ordinance is approved.

James H. Curry III
Mayor

I hereby certify the foregoing Ordinance was advertised in the _____ on _____, 2021, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at the regular meeting of the municipality's governing body held on _____, 2021.

Grace Miller
Borough Secretary