**MIDDLETOWN BOROUGH**

**ORDINANCE NO. 2019-1383**

**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), TO AMEND THE TITLE OF THE CHAPTER; TO AMEND ARTICLE I (STORAGE AND COLLECTION) TO UPDATE DEFINITIONS; TO AMEND ARTICLE III (OPEN BURNING) TO UPDATE DEFINITIONS AND TO PROHIBIT OPEN BURNING OF RECYCLABLE MATERIALS; TO AMEND ARTICLE IV (RECYCLING) TO REQUIRE THAT LEAF WASTE BE DISPOSED OF IN ACCORDANCE WITH BOROUGH ORDINANCE AND TO PROHIBIT THE DISPOSING OF RECYCLABLE MATERIALS AS REFUSE; TO PROVIDE FOR THE REPEAL OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE AND THE SEVERABILITY OF THE PROVISIONS THEREOF; AND TO PROVIDE FOR THE EFFECTIVE DATE THEREOF.**

**WHEREAS,** the Council for the Borough of Middletown (the “Borough”) has determined a need to regulate the disposal of recyclable materials, rubbish, refuse and leaf waste within the Borough as a matter of public health and safety; and

 **WHEREAS,** the Borough staff has consulted with the Pennsylvania Department of Environmental Protection regarding the amendments contained in this ordinance; and

 **WHEREAS**, the Borough has considered this amendatory ordinance to be in the best interest of Borough residents.

 **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 (Garbage, Rubbish and Refuse), be amended as follows:

**SECTION 1**. The title of Part II, Chapter 164 shall be amended by removing the bracketed language and adding the underlined language to the title of the chapter as follows:

 Chapter 164. Garbage, **[Rubbish and],** Refuse, and Recyclable Materials

**SECTION 2**. Part II, Chapter 164, Article I (Storage and Collection) shall be amended by removing the following bracketed language and adding the underlined language to Section 1 (Definitions), with asterisks indicating existing language that is not being amended:

§ 164-1 Definitions.

The following shall be defined as follows, in this article and any other ordinance of the Borough previously enacted or to be enacted, except where the context indicates otherwise:

**\* \* \* \* \***

REFUSE

All solid wastes, except body waster, and shall include garbage**[,]** and ashes **[and rubbish]** but shall not include designated recyclable materials as defined in Article IV (Recycling) of this Chapter.

**[**[**RUBBISH**](https://ecode360.com/5138267#5138267)

**Includes glass, metal, paper, plant growth, wood or nonputrescible solid wastes.]**

**SECTION 3**. Part II, Chapter 164, Article III (Open Burning) shall be amended by removing the following bracketed language and adding the underlined language to Section 17 (Definitions), with asterisks indicating existing language that is not being amended:

§ 164-17 Definitions.

As used in this article, the following terms shall have the meanings indicated:

Designated recyclable materials

Those source separated recyclable materials designated in Article IV (Recycling), Section 27 (Designated recyclable materials).

**\* \* \* \* \***

Refuse

All putrescible and imputrescible wastes, except body waste, and including but not limited to garbage**, [rubbish, yard trimmings, leaves]**, ashes, street cleanings, dead animals, abandoned vehicles and solid market and individual waste.

**\* \* \* \* \***

**SECTION 4**. Part II, Chapter 164, Article III, shall be amended by adding the underlined language to Section 18 (Open burning prohibited):

No person shall cause, suffer, allow or permit open burning of refuse, designated recyclable materials, or plant life nor conduct a salvage operation by open burning.

**SECTION 5**. Part II, Chapter 164, Article III, shall be amended by adding the underlined language to Section 19 (Exceptions), with asterisks indicating existing language that is not being amended:

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. The burning of refuse or designated recyclable materials in conjunction with open barbeque pits or devices of similar construction is strictly prohibited; or

\* \* \* \* \*

**SECTION 6.** Part II, Chapter 164, Article IV (Recycling), shall be amended by adding the underlined language to Section 24 (On-site collection and disposal):

 § 164-24 On-site collection and disposal.

A. Each person who owns or occupies a residential unit, multifamily unit or nonresidential unit within the municipality shall ensure that designated recyclable material generated at such residential unit, multifamily unit or nonresidential unit are collected and disposed of in accordance with this article, the municipality's policies and procedures, and DCMWM Plan requirements.

B. Designated recyclable materials generated at such residential unit, multifamily unit or nonresidential unit are required to be collected and disposed of at a frequency of not less than once per month.

**SECTION 7.** Part II, Chapter 164, Article IV shall be amended by removing the following bracketed language and adding the underlined language to Section 27 (Designated recyclable materials), with asterisks indicating existing language that is not being amended:

 § 164-27 Designated recyclable materials.

\* \* \* \* \*

D. Woody waste and leaf waste are **[is a]** designated recyclable **[material]** materials and shall be disposed of in accordance with rules and regulations for the disposal of woody waste and leaf waste as established by the municipality. Woody waste and leaf waste may not be mixed with other types of commercial municipal waste or other designated recyclable materials.

**SECTION 8.** Part II, Chapter 164, Article IV, shall be amended by adding the underlined language to Section 29 (Illegal dumping and open burning), with asterisks indicating existing language that is not being amended

§ 164-29 Illegal dumping and open burning.

\* \* \* \* \*

C. No person shall illegally dump or dispose of as garbage, refuse or regulated municipal waste, as defined in Article I (Storage and Collection), any designated recyclable materials.

**SECTION 9. Repealer**

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

**SECTION 10. Revisions**

Borough Council of the Borough of Middletown does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its ordinances, including these provisions.

**SECTION 11. Severability**

In the event any provisions, sections, sentences, clause, or part of this Ordinance Amendment shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance Amendment, it being the intent of Borough Council that the remainder of the Ordinance Amendment shall remain in full force and effect.

**SECTION 11. Effective Date**

This Ordinance Amendment shall take effect and be in force five (5) days after its enactment as provided by 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**

**ATTEST: BOROUGH OF MIDDLETOWN**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Grace Miller Ian Reddinger

Borough Secretary Borough Council President

**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 Patriot News 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.

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Grace Miller

Borough Secretary