

**MIDDLETOWN BOROUGH
ORDINANCE NO. 2023-1409**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MIDDLETOWN, PART I (ADMINISTRATIVE LEGISLATION), CREATING A NEW CHAPTER 27 FOR THE PROVISION OF A SPECIAL FUND TO BE USED FOR CREDIT PAYMENTS AND/OR CONSTRUCTION PROJECTS TO MEET MS4 REQUIREMENTS.

WHEREAS, the Borough of Middletown, Dauphin County, Pennsylvania (the “Borough”), is a body corporate and politic duly organized and existing as a political subdivision under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, Borough Council may create special funds for the deposit of designated revenues pursuant to the Pennsylvania Borough Code, 8 Pa. C.S. §1313.1 and §1202(22); and

WHEREAS, Borough Council has determined that to ensure accessible and available funds for payments for MS4 compliance as they become needed, that a Fund be created to provide a dedicated funding resource; and

WHEREAS, Borough Council has found that expenses related to MS4 compliance are not allocated for in the Borough’s annual budget would significantly impact the adopted budget; and

WHEREAS, the Borough Council believes it is wise to make funds available for these inevitable expenses that may be significant in nature; and

WHEREAS, it is within the power of Borough Council to contribute as it is necessary for the Borough’s compliance to environmental requirements stipulated by USEPA and PADEP and to appropriate money for same; and

WHEREAS, the Borough Council desires to amend the Borough’s Code of Ordinances in order to establish an MS4 Sinking Fund to help cover expenses related to MS4 compliance; and

WHEREAS, the Borough Council has made this consideration 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, pursuant to 8 Pa. C.S. §1313.1, Creation of Special Funds and Investments, and 8 Pa. C.S. §1202(22), that the Code of Ordinances of the Borough of Middletown, Part I, Administrative Legislation, be amended as follows:

SECTION 1. The Code of Ordinances of the Borough of Middletown, Part I, Administrative Legislation, shall be amended to create a new Chapter 27 and titled “MS4 Sinking Fund” and add therein a new Article I, “Establishment and Administration,” to read as follows:

§ 27-1 Establishment.

There shall be established in the Borough of Middletown (hereinafter the “Borough”) an MS4 Sinking Fund pursuant to the authority set forth in 8 Pa. C.S. §1313.1 for the creation of special funds and investments, and the authority set forth under 8 Pa. C.S. §1202(22) for the appropriation of funds for the purchase of capital assets of the Borough. The Borough shall set aside money in MS4 Sinking Fund for MS4 compliance. The administration, control, investment and expenditure of the MS4 Sinking Fund by Borough Council shall be in accordance with this Chapter.

§ 27-2 Administration.

A. Deposits.

The MS4 Sinking Fund shall be funded by annual contributions from the Borough’s General Fund, when possible, in accordance herewith. A transfer from the General Fund to the MS4 Sinking Fund shall be made in each year that there is an end-of-year surplus, after all required allocations have been designated. A transfer, as determined by Borough Council, equal to up to 10%, but not to exceed \$50,000, of the available surplus shall be made after receipt by the Borough of the audited financial statements for the fiscal year for which there was a year-end surplus. Nothing herein is to be construed as imposing a duty on the Borough to allocate revenue to the MS4 Sinking Fund in any year.

B. Expenditures.

Funds of the MS4 Sinking Fund shall be used for MS4 compliance expenses in order to meet the requirements set forth by USEPA and PADEP as approved by Borough Council. Such expenditures, which may be paid from principal and interest, are those that would result in significant unanticipated revenue shortfalls if paid out of the General Fund. Consistent with Section 1313.1 of the Borough Code, expenditures from the MS4 Sinking Fund shall be in the manner as may be determined by action of Council as authorized under this governing ordinance.

C. Investments.

Money deposited into the MS4 Sinking Fund shall be subject to the investment rules governing Borough funds set forth under Pennsylvania law, including 8 Pa. C.S. §1316, Investment of Funds.


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 27 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 27 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 5th day of December 2023, by the Borough of Middletown, Dauphin County, Pennsylvania, in lawful session duly assembled.

ATTEST:



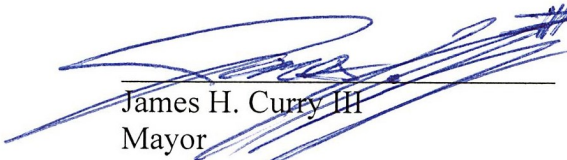
Grace Miller
Borough Secretary

**BOROUGH COUNCIL OF THE
BOROUGH OF MIDDLETOWN**


BY: 

Ian Reddinger
Borough Council President

AND NOW THIS 5th day of December, 2023, the foregoing Ordinance is approved.


James H. Curry III
Mayor

I hereby certify the foregoing Ordinance was advertised in the Patriot News on November 14, 2023, 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 December 5, 2023, 2023.


Grace Miller
Borough Secretary

