

# Chapter 1

## GENERAL PROVISIONS

### ARTICLE I Violations and Penalties

- § 1-1. Title.
- § 1-2. Authority.
- § 1-3. Purposes and background.
- § 1-4. Definitions.
- § 1-5. Amendment and modification.

§ 1-6. Enforcement procedure, form and service of civil enforcement notice.

§ 1-7. Violation of ordinances and penalties.

§ 1-8. Relationship to other ordinances.

### ARTICLE II Adoption of Code

**[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton as indicated in article histories. Amendments noted where applicable.]**

---

### ARTICLE I Violations and Penalties [Adopted 10-3-1996 by Ord. No. 96-4]

§ 1-1. Title. [Amended 5-21-1997 by Ord. No. 97-4]

This article shall be known as the "Omnibus Criminal and Civil Procedure Enforcement Ordinance."

§ 1-2. Authority.

This article is enacted pursuant to Article XVI of the Second Class Township Code, 53 P.S. § 66601.

§ 1-3. Purposes and background.

- A. The Board recognizes the recent amendments to the Second Class Township Code<sup>1</sup> which establish maximum fines for violations of ordinances and which establish consistent methods of enforcing Township ordinances.
- B. The Board recognizes that there are existing ordinances of this Township which are civil in nature but which provide for criminal or quasi-criminal penalties for violations, and the Board intends to cause said ordinances to be modified and amended in order to comply with amendments to the Second Class Township Code, 53 P.S. § 66601, as amended.

---

1. Editor's Note: See 53 P.S. § 65101 et seq.

- C. The Board recognizes that the amendments to the Second Class Township Code are relevant to Township ordinances and the Board intends that this article shall establish new procedures for enforcement of Township ordinances and establish new penalties for violation of Township ordinances.
- D. The Board recognizes that this article has no effect upon any Zoning, Land Development or Subdivision Ordinance which are regulated entirely by the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

**§ 1-4. Definitions.**

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

**CIVIL ENFORCEMENT PROCEEDING** — Civil litigation commenced by the Township before an issuing authority to enforce a violation of any ordinance.

**CIVIL ENFORCEMENT NOTICE** — A written notice sent by the initiating official to any person, corporation, partnership in violation of any ordinance.

**INITIATING OFFICIAL** — The person authorized by the Board to initiate proceedings for the violation of ordinances. The initiating official may be, but need not be, the Zoning Officer, the Code Enforcement Officer or a police officer of the North Middleton Township Police Department. In addition, staff employees and agents of the Township may be designated, from time to time, by resolution of the Board, to act as the "Initiating Official."

**ISSUING AUTHORITY** — A Magisterial District Judge or other public official having the power and authority of a Magisterial District Judge.

**§ 1-5. Amendment and modification.**

All ordinances heretofore enacted shall be and are hereby modified and amended to provide for civil fines, judgments or penalties in accordance with the provisions the Second Class Township Code, 53 P.S. § 66601, as amended, and this article. All ordinances heretofore enacted shall be and are hereby modified and amended to provide for the initiation of a civil enforcement proceeding as the means of enforcing violations of any Township ordinance in accordance with the provisions of the Second Class Township Code, 53 P.S. § 66601, as amended, and this article. Nothing herein shall be construed to prevent North Middleton Township from pursuing actions at law or in equity to enforce ordinances.

**§ 1-6. Enforcement procedure, form and service of civil enforcement notice.**

- A. If it appears to the initiating official that a violation of any municipal ordinance has occurred, the initiating official shall initiate enforcement proceedings by sending a civil enforcement notice as provided in this article.
- B. The civil enforcement notice shall be sent by certified or registered mail to the owner of record of the property or parcel on which the violation has occurred, to any person who has filed a written request to receive civil enforcement notices regarding the property or parcel, or to any other person requested in writing by the owner of record. In the event

the mail is returned or not accepted, the civil enforcement notice shall be hand delivered to the property owner or posted on the property or parcel in violation of any ordinance.

- C. The Board of Supervisors may, and is hereby empowered, to establish a form document entitled "Civil Enforcement Notice," which form may be amended from time to time by resolution at the discretion of the Board. The civil enforcement notice shall contain such information as is deemed appropriate by the Board, in its sole discretion, but at a minimum the following information shall be set forth:
- (1) The name, address and phone number, if known and applicable, of the owner or record owner and other person against whom the Township intends to take action.
  - (2) The location of the property, including street address, if any, the deed reference and the tax parcel number of the property, if any, and the date and time of violation.
  - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (5) A statement that the applicable provisions of the ordinance are available for review at the Township offices.
  - (6) That the failure to comply with the notice within the times specified will result in the commencement of a civil enforcement proceeding before the appropriate issuing authority for the purpose of imposing fines, including the imposition of filing fees, other court costs, and reasonable attorney fees incurred by the Township.
- D. All civil proceedings for enforcement of ordinances shall be commenced in the name of North Middleton Township at the office of the issuing authority having jurisdiction over the area of North Middleton Township.

#### **§ 1-7. Violation of ordinances and penalties.**

- A. Ordinances to be criminally enforced. All ordinances heretofore or hereinafter enacted which regulate building, housing, property maintenance, health, fire, public safety, parking, solicitation, curfew, water, air or noise pollution shall be enforced criminally, as summary offenses, under the Pennsylvania Rules of Criminal Procedure, with offenders subject to fines of not more than \$1,000, plus all court costs, and imprisonment, all pursuant to the purpose and mandate of Act No. 172 of 1996. **[Amended 5-21-1997 by Ord. No. 97-4<sup>2</sup> ]**
- B. Ordinances to be civilly enforced. All ordinances heretofore or hereinafter enacted which do not fall within the definition of those defined and referred to in § 1-7A above shall be civilly enforced in accordance with the provisions of this article. Offenders under these

---

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ordinances shall be subject to a civil penalty of not more than \$600, plus all court costs, including the reasonable attorneys' fees, incurred by North Middleton Township. **[Amended 5-21-1997 by Ord. No. 97-4<sup>3</sup> ]**

- C. Imposition of judgment. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by an issuing authority. If the violator neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure.
- D. Continuing violation. Each day that a violation continues shall constitute a separate violation, unless the issuing authority, after determining that there has been a violation, further determines that there was a good faith basis for the person, partnership, or corporation violating the ordinance to have believed that there was no violation, in which event there shall be deemed to have been only one violation until the fifth day following the date of the determination of a violation by the issuing authority, and thereafter, each day that a violation continues shall constitute a separate violation.
- E. General fund. All judgments, costs and reasonable attorneys' fees collected for the violation of this article shall be paid over to the North Middleton Township general fund.
- F. Attorneys' fees. Where attorneys' fees are sought to be collected or are incurred as a result of a civil enforcement proceeding or other action initiated by North Middleton Township, said attorneys' fees shall be at such rate as set by Board of Supervisors at the reorganization meeting for all work in connection with the civil enforcement proceeding or other action initiated, all based upon the time expended by the Township Solicitor or other attorney designated by the Board to enforce Township ordinances. The Board may, from time to time, amend the hourly rate for attorneys' fees by resolution, all at the discretion of the Board.<sup>4</sup>

#### **§ 1-8. Relationship to other ordinances.**

- A. Those parts of existing ordinances which provide for criminal fines and other criminal penalties in contravention to the Second Class Township Code, 53 P.S. § 66601 et seq., or any subsequent amendments thereto, are hereby repealed and the applicable provisions of this article are substituted therein in order to provide lawful civil penalties.
- B. Those ordinances which contain criminal fines and other criminal penalties authorized by other enabling legislation permitting such criminal penalties shall be unaffected by this article and shall remain in full force and effect.

---

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE II  
Adoption of Code

**[An ordinance adopting the Code of the Township of North Middleton and making certain substantive changes to existing ordinances of the Township is presently proposed before the Board of Supervisors. Upon final adoption, it will be included here as Article II of this chapter.]**

