

TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA

ORDINANCE NO. 141

AN ORDINANCE OF WASHINGTON TOWNSHIP, FRANKLIN COUNTY, PENNSYLVANIA, KNOWN AS THE ORDINANCE ENFORCEMENT PROCEEDINGS ORDINANCE; ESTABLISHING PROCEDURES FOR FILING CIVIL ENFORCEMENT PROCEEDINGS AND SUMMARY OFFENSE ENFORCEMENT PROCEEDINGS FOR VARIOUS ORDINANCE VIOLATIONS; APPROVING RESOLUTION AS A MEANS OF IDENTIFYING ENFORCEMENT OFFICERS FOR VARIOUS ORDINANCES; ESTABLISHING PAYMENT REQUIREMENTS FOR CIVIL VIOLATIONS AND FINES AND PENALTIES FOR SUMMARY OFFENSES; AND ESTABLISHING PROVISIONS FOR PAYMENT OF ATTORNEYS FEES IN CIVIL ENFORCEMENT PROCEEDINGS BEFORE DISTRICT JUSTICES OR COURTS OF COMMON PLEAS.

WHEREAS, over the years, Washington Township has ordained several ordinances providing for, among other things, criminal penalties, arrests, criminal fines, summary offenses, as well as civil offenses and civil penalties; and

WHEREAS, Act 60 of 1995, 53 P.S. §65101 et seq. re-enacted into law the Second Class Township Code, to be effective May 7, 1996;

AND WHEREAS, pursuant to Act 60 of 1995, Washington Township enacted Ordinance No. 138;

AND WHEREAS, the legislature subsequently passed Act 172 of 1996 which made further changes to the provisions of the Second Class Township Code governing ordinances and ordinance enforcement at §1601 of Act 172, 53 P.S. §66601;

AND WHEREAS, the Board of Supervisors of Washington Township now wishes to bring into compliance with the current enforcement provisions of the Second Class Township Code, as further amended all ordinances heretofore ordained.

NOW, THEREFORE, it is hereby ordained and enacted by the Board of Supervisors of Washington Township, Franklin County, Pennsylvania, as follows:

Section 1. Name and Purpose. This ordinance shall be known as the Ordinance Enforcement Proceedings Ordinance of Washington Township and shall govern the imposition of civil penalties not to exceed Six Hundred (\$600) Dollars per violation for certain Township ordinances and criminal fines not to exceed One Thousand (\$1,000) Dollars per violation and/or imprisonment for the criminal violation of certain other ordinances.

Section 2. Specific Repealer and Amendments. Portions of the following ordinances are repealed as set forth and the civil

penalties and criminal fines for violation of each ordinance are hereby established as follows:

A. Ordinance 31, Curfew: Section 6, and in its place establishes criminal fines of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 31 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

B. Ordinance 43, Transient Retail Businesses: Section 8, and in its place establishes criminal fines of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 43 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

C. Ordinance 46, Street Cleaning: Section 6, and in its place establishes civil penalties of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional civil penalty of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 46 shall be enforced by a civil enforcement proceeding initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.

D. Ordinance 52, Outdoor Amusements: Section 14, and in its place establishes criminal fines of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional criminal fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 52 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

E. Ordinance 54, Connection to Public Sewer: Sections 5.01 and 5.02, and in their place establishes criminal penalties of Fifty (\$50) Dollars for the first day's violation, of One Hundred (\$100) Dollars for the second day's violation, and an additional fine of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist. Ordinance 54 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

F. Ordinance 67, Fire Lanes: Section 5, and in its place establishes criminal fines of Fifty (\$50) Dollars for the first

offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. The notice and advance payment provisions of Section 5, however, shall remain in full force and effect. Ordinance 67 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

G. Ordinance 88, Nuisance Ordinance: Sections 5 (1), and in its place establishes criminal fines of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 88 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

H. Ordinance 98, Dog and Cat Ordinance: Sections 5 and 6, and in their place establishes criminal fines of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 98 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

I. Ordinance 108, Junk Yards: Section 16, and in its place establishes criminal fines of Fifty (\$50) Dollars for the first day's violation, of One Hundred (\$100) Dollars for the second day's violation, and an additional fine of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist. Ordinance 108 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

J. Ordinance 128, Amending Ordinance 54, Connection to Public Sewer: Section 3 is repealed.

K. Ordinance 133, Sheffield Manor and Millwood Village Play Areas: Sections 5 and 6, and in their place establishes criminal fines of Fifty (\$50) Dollars for the first offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Ordinance 133 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

L. Ordinance 135, Red Run Park: Section 4, and in its place establishes criminal fines of Fifty (\$50) Dollars for the first

offense arising on any day or portion thereof; of One Hundred (\$100) Dollars for the second offense arising on any day or portion thereof; and an additional fine of up to Five Hundred (\$500) Dollars for each subsequent offense arising on any day or portion thereof. Nothing in Section 4 of Ordinance 135 relating to restitution is repealed by this ordinance. Section 5 is repealed. Ordinance 135 shall be enforced in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

Section 3. Enforcement Authority. The Washington Township Code Enforcement Officer or, in his absence, his designee, any officer of the Washington Township Police Department and the Township Manager are hereby nominated and appointed Enforcement Officers for each of the ordinances referred to above; and every Enforcement Officer is authorized and directed to provide notices as required, issue civil citations as required, institute civil enforcement proceedings or summary offense proceedings as required to achieve compliance with each ordinance above referred to consistent with the provisions of this ordinance

Section 4. Determination of Violation of Ordinances Enforceable by Civil Proceedings. An Enforcement Officer shall determine, in each instance, whether a violation has occurred under this ordinance or under any ordinance amended by this ordinance. Upon determining that a violation has occurred, the Enforcement Officer shall issue the required notice or, if indicated, may impose a civil penalty upon each violator in the amount set forth in Section 2 above. Nothing in this section shall be construed to prevent any Enforcement Officer from issuing a warning.

Section 5. Procedure Upon Determination of Violation of Ordinance Enforceable by Civil Enforcement Proceedings. Upon determination that a violation has occurred, and where a violator has not complied with conditions set forth in any notice which may have been given, an Enforcement Officer shall issue a civil citation on a form to be provided by the Township. Each civil citation shall notify the violator of the ordinance under which the citation is being issued, the specific violation for which the citation is being issued, the amount of the civil penalty, the fact that any proceeding necessitated by failure to pay the civil penalty will be a civil proceeding; the time within which the civil penalty must be paid; and the consequences of failure to pay the civil penalty by the date indicated on the civil citation.

Section 6. Continuing Violations of Ordinances Enforceable by Civil Enforcement Proceedings. Upon determination in each instance that a civil violation has occurred under this ordinance or under any ordinance amended by this ordinance, for any person not in compliance, each continuing day of violation or noncompliance after the first day of violation shall be a separate offense for which an Enforcement Officer may seek separate civil penalties in the same or separate proceedings.

Section 7. Institution of Civil Enforcement Proceedings;

Attorneys Fees and Costs. In any case where a civil penalty has not been paid by its due date, the Enforcement Officer shall commence a civil enforcement proceeding before the District Justice. In any such proceeding, the Enforcement Officer shall include a request for attorneys fees and costs and the Court shall enter the Township's legal fees and Court costs in any judgment entered in favor of the Township pursuant to the authority of this ordinance and the authority of the Second Class Township Code, 53 P.S. §66601 (c.1) (1). The amounts of any civil penalties set forth in this ordinance shall conclusively be presumed to be reasonable and shall be binding upon the District Justice Court and the Court of Common Pleas.

Section 8. Institution of Criminal Enforcement Proceedings.

In any case where an ordinance is enforceable as a summary offense, enforcement shall be by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Pursuant to 53 P.S. §66601 (c.1) (2), the Municipal Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pennsylvania Rule of Criminal Procedure 83 (c) (relating to trial in summary cases).

Section 9. Enforcement in Equity. Nothing contained in this ordinance shall prohibit a Township from enforcing any ordinance through an action in equity brought in the Court of Common Pleas of Franklin County, Pennsylvania.

Section 10. Separate Offenses. Nothing in this ordinance shall be construed to prohibit the finding of a separate offense for each day or portion thereof in which a civil violation is found to exist or for each section of the ordinance which is found to have been violated.

Section 11. Failure to Pay upon a Judgment in Civil Enforcement Proceedings. If the defendant in any civil enforcement proceeding fails to pay a final judgment or fails to timely appeal the civil penalty imposed, the Township may enforce the judgment pursuant to applicable Rules of Civil Procedure.

Section 12. Facilitation. An Enforcement Officer may seek the assistance of the Township Solicitor in connection with the imposition of any civil penalty or the commencement of any civil enforcement proceeding. In addition, the Township Solicitor is hereby directed and authorized to establish a civil citation form or notice for use by the Township and its Enforcement Officers. Notices and/or civil citations, as the case may be, shall be served upon violators by an Enforcement Officer upon determination in each instance that violation has occurred.

Section 13. Service of Civil Citations and Notices. Civil citations and notices may be served upon violators by any form of United States mail requiring a return receipt; or, if returned marked "refused" or "unclaimed", by regular first class mail; or by personal delivery upon the violator; or if service cannot be made by mail or

by personal service, by advertisement one time in the Waynesboro Record Herald.

Section 14. Investigation. Any Enforcement Officer identified in this ordinance or named by resolution of the Board of Supervisors shall be authorized to investigate and gather evidence to assist in connection with civil and criminal enforcement procedures described herein.

Section 15. Cooperation. The Washington Township Police Department, municipal volunteer fire departments, the Zoning Officer, the Township Secretary, and any other municipal officials are hereby authorized to cooperate with any Enforcement Officer in connection with an investigation of a violation or series of violations of this ordinance or of any ordinance referred to in Section 2 above.

Section 16. Payment of Civil Penalties. Civil penalties may be paid by personal check or money order made payable to the Washington Township Treasurer or by cash and delivered to the Washington Township Treasurer or his designee. Civil penalties may be paid by mail. Civil penalties paid by mail will be considered to have been paid on time if the envelope is postmarked not later than the due date shown on the citation. Criminal fines may be paid by personal check or money order made payable to the Washington Township Treasurer or by cash. All criminal fines must be personally delivered to the Washington Township Treasurer or his designee.

Section 17. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

Section 18. Construction. If, in the construction and interpretation of this ordinance, or of any ordinance referred to in Section 2 above, there appears to be a conflict or an ambiguity, every effort shall be made to read and interpret the conflicting or ambiguous provisions in a manner which permits the fair application of the Ordinances of Washington Township. It is the intention of the Board of Supervisors that any Court construing or interpreting this and other Washington Township Ordinances will make every reasonable attempt to allow their enforcement.

Section 19. Specific Repealer. Ordinance No. 138 is hereby repealed in its entirety.

ORDAINED AND ENACTED in lawful session duly assembled this 15th day of September, 1997.

Attest:

TOWNSHIP OF WASHINGTON
BOARD OF SUPERVISORS

Juanita L. Ausherman
Juanita L. Ausherman, Secretary

Richard D. Eigenbrode
Richard D. Eigenbrode,
Chairman

I, Juanita L. Ausherman, Secretary of the Board of Supervisors, Washington Township, Franklin County, Pennsylvania, do certify that the foregoing is a true and correct copy of an Ordinance adopted at a regular meeting of the Washington Township Supervisors held September 15, 1997, in regular session duly assembled.

Juanita L. Ausherman,
Secretary

Juanita L. Ausherman

