

TOWNSHIP OF WASHINGTON
Franklin County, Pennsylvania

ORDINANCE NO. 138

AN ORDINANCE OF WASHINGTON TOWNSHIP, FRANKLIN COUNTY, PENNSYLVANIA, KNOWN AS THE CIVIL ENFORCEMENT PROCEEDINGS ORDINANCE, CHANGING CRIMINAL VIOLATIONS AND SUMMARY OFFENSES TO CIVIL VIOLATIONS; CHANGING CRIMINAL PENALTIES TO CIVIL PENALTIES; ESTABLISHING PROCEDURES FOR FILING AND ESTABLISHING CIVIL PENALTIES FOR VARIOUS ORDINANCE VIOLATIONS; APPROVING RESOLUTION AS A MEANS OF IDENTIFYING ENFORCEMENT OFFICERS FOR VARIOUS ORDINANCES; ESTABLISHING PAYMENT REQUIREMENTS FOR CIVIL VIOLATIONS; AND ESTABLISHING PROVISIONS FOR PAYMENT OF ATTORNEY'S 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 and summary offenses; and

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

AND WHEREAS, the re-enacted Second Class Township Code provides at §1601(c), 53 P.S. §66601, that any person who violates or permits a violation of a Township ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by a municipality pays a fine set by the Board of Supervisors plus all court costs, including reasonable attorneys' fees, incurred by a municipality;

AND WHEREAS, the Board of Supervisors of Washington Township now wishes to bring into compliance with the enforcement provisions of the Second Class Township Code, as amended and re-enacted 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 Civil Enforcement Procedure Ordinance of Washington Township and shall govern the imposition of civil penalties for violation of Township ordinances as hereinafter set forth.

Section 2. Specific Repealer and Amendments. Portions of the following ordinances which make reference to criminal penalties or criminal fines or which provide for arrests or which define summary offenses are hereby repealed and the civil penalties for violation of each ordinance are hereby established as follows:

A. Ordinance 31, Curfew: Section 6, and in its place establishes civil 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 penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

B. Ordinance 43, Transient Retail Business: Section 7, and in its place establishes civil 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 penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

C. Ordinance 46, Street Cutting: Section 6, and in its place establishes civil 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 penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

D. Ordinance 52, Outdoor Amusements: Section 14, and in its place establishes civil penalties of Fifty (\$50) for the first day's violation, and an additional penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

E. Ordinance 54, Connection to Public Sewer: Sections 5.01 and 5.02, and in their place establishes civil 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 penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

F. Ordinance 67, Fire Lanes: Section 5, and in its place establishes civil 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 penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist. The notice and advance payment provisions of Section 5, however, shall remain in full force and effect.

G. Ordinance 88, Nuisance Ordinance: Sections 5 (1), and in its place establishes a civil penalty of Fifty (\$50) Dollars for the first day's violation, of One Hundred (\$100) Dollars for the second day's violation, and an additional penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

H. Ordinance 98, Dog and Cat Ordinance: Sections 5 and 6, and in their place establishes a civil penalty of Fifty (\$50) Dollars for the first day's violation, of One Hundred (\$100) Dollars for the second day's violation, and an additional penalty of up to Two Hundred Fifty (\$250) Dollars for each additional day that a violation is found to exist.

I. Ordinance 108, Junk Yards: Section 16, and in its place establishes civil penalties of One Hundred (\$100) Dollars for the first day's violation, of Two Hundred (\$200) Dollars for

the second day's violation, and an additional penalty of up to Five Hundred (\$500) Dollars for each additional day that a violation is found to exist.

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 a civil penalty of Fifty (\$50) Dollars for the first day's violation, of One Hundred (\$100) Dollars for the second day's violation, and an additional penalty of Three Hundred (\$300) Dollars for each additional day that a violation is found to exist.

L. Ordinance 135, Red Run Park: Section 4, but only those provisions relating to criminal penalties or criminal fines, and in place thereof, it establishes a civil penalty of Fifty (\$50) Dollars for the first day's violation, of One Hundred (\$100) Dollars for the second day's violation and an additional penalty of Five Hundred (\$500) Dollars for each additional day that a violation is found to exist. Nothing in Section 4 of Ordinance 135 relating to restitution is repealed by this Ordinance. Section 5 is repealed.

Any other portions of the foregoing ordinances are repealed only insofar as they are inconsistent herewith. In all other respects, the foregoing ordinances are hereby ratified and confirmed.

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, and institute civil enforcement proceedings as required to achieve compliance with each ordinance above referred to consistent with the provisions of this ordinance.

Section 4. Determination of Violation. 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. 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. 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 non-compliance 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 Proceedings; Attorneys Fees. 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 judgement 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). 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. Failure to Pay upon a Judgement. If the defendant in any civil enforcement proceeding fails to pay a final judgement or fails to timely appeal the civil penalty imposed, the Township may enforce the judgement pursuant to applicable Rules of Civil Procedure.

Section 9. 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 a violation has occurred.

Section 10. 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 11. 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 enforcement procedures described herein.

Section 12. 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 13. Payment of Civil Penalties. Civil penalties may be paid by personal check or money order made payable to Washington Township or cash and delivered to the Township Secretary or other designated official. 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.

Section 14. 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 15. 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.

ORDAINED AND ENACTED in lawful session duly assembled this 21st day of October, 1996.

Attest:

TOWNSHIP OF WASHINGTON
BOARD OF SUPERVISORS

Juanita L. Ausherman
Secretary

By
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 October 21, 1996, in regular session duly assembled.

Secretary

Juanita L. Ausherman,