

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- § 1-1. Approval, adoption and enactment of Code.
- § 1-2. Effect of Code on previous provisions.
- § 1-3. Repeal of legislation not contained in Code.
- § 1-4. Legislation saved from repeal; matters not affected by repeal.
- § 1-5. Inclusion of new legislation prior to adoption of Code.
- § 1-6. Changes and revisions in previously adopted legislation; new provisions.
- § 1-7. Interpretation of provisions.
- § 1-8. Titles and headings; editor's notes.
- § 1-9. Filing of copies of Code.
- § 1-10. Amendments to Code.
- § 1-11. Code books to be kept up-to-date.

- § 1-12. Publication of notices.
- § 1-13. Altering or tampering with Code; penalties for violation.
- § 1-14. Severability.
- § 1-14.1. When effective.

ARTICLE II Violations and Penalties

- § 1-15. Title.
- § 1-16. Authority.
- § 1-17. Purposes and background.
- § 1-18. Definitions.
- § 1-19. Amendment and modification.
- § 1-20. Enforcement procedure, form and service of civil enforcement notice.
- § 1-21. Violation of ordinances and penalties.
- § 1-22. Relationship to other ordinances.

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

ARTICLE I Adoption of Code

[Adopted 1-2-2001 by Ord. No. 2001-1]

§ 1-1. Approval, adoption and enactment of Code.

Pursuant to Section 1601(d) [53 P.S. § 66601(d)] of the Second Class Township Code, the codification of a complete body of legislation for the Township of North Middleton, County of Cumberland, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code Publishers Corp., and consisting of Chapters 1 through 204, together with an Appendix, are hereby approved, adopted, ordained and enacted as a single ordinance of the Township of North Middleton, which shall be known and is

hereby designated as the "Code of the Township of North Middleton," hereinafter referred to as the "Code."

§ 1-2. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Supervisors of the Township of North Middleton, and it is the intention of said Board of Supervisors that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Provisions of this ordinance shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance repealed by this ordinance. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3. Repeal of legislation not contained in Code.

All ordinances or parts of ordinances of a general and permanent nature adopted by the Township of North Middleton and in force on the date of the adoption of this Code and not contained in the Code are hereby repealed as of the effective date given in § 1-15 below, except as hereinafter provided.

§ 1-4. Legislation saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to 9-21-1999.
- B. Any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township or any penalty, punishment or forfeiture which may result therefrom.

- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Township.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Township or any lawful contract, obligation or agreement.
- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Township or other instruments or evidence of the Township's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the Township.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the Township or setting the bond of any officer or employee.
- P. Any ordinance concerning changes and amendments to the Zoning Map.
- Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees, specifically including Ch. I, Part 6, of the 1979 Code of Ordinances, and any amendments thereto.
- R. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Township.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part

of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted legislation; new provisions.

- A. In compiling and preparing the ordinances and resolutions of the Township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances and resolutions, and certain outdated statutory references, nomenclature and penalties were updated. Specific fee amounts have been removed from the text of the chapters and replaced by the phrase "as set from time to time by resolution of the Board of Supervisors." No substantive changes in the meaning or the intent of such ordinances have been made except where indicated by histories or footnotes in the text of the chapters. It is the intention of the Board of Supervisors that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such. The changes, amendments or revisions shall be deemed to become effective as of the effective date of Adopting Ordinance.

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Filing of copies of Code.

Three copies of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Township Secretary and shall remain there for use and examination by the public. Upon adoption, such copies shall be certified to by the Township Secretary, as provided by law, and such certified copies shall remain on file in the office of the Township

Secretary, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the Township Secretary or someone authorized and directed by him or her to keep up-to-date the certified copies of the book containing the Code required to be filed in the office of the Township Secretary for the use of the public. All changes in said Code and all legislation adopted by the Board of Supervisors subsequent to the effective date of this codification which the Board of Supervisors shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new legislation are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-12. Publication of notices.

The Township Secretary, pursuant to law, shall cause to be published in the manner required a notice of the introduction of the Code in a newspaper of general circulation in the Township. The enactment and application of this ordinance, coupled with the publication of the notice of introduction, the availability of copies of the Code for inspection by the public and the filing of an attested copy of this ordinance with the county, as required by law, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof, in any manner whatsoever, which will cause the law of the Township to be misrepresented thereby. Any person who violates or permits a violation of this section of this ordinance, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this chapter. No judgment shall be imposed until the date of the determination of the violation by the District Justice and/or Court. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day a violation exists shall constitute a separate offense. Further, the

appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

§ 1-14. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the Board of Supervisors that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

§ 1-14.1. When effective.

This ordinance shall become effective in accordance with law.

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

§ 1-15. Title. [Amended 5-21-1997 by Ord. No. 97-4]

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

§ 1-16. Authority.

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

§ 1-17. Purposes and background.

- A. The Board recognizes the recent amendments to the Second Class Township Code¹ 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.

§ 1-18. 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 District Justice or other public official having the power and authority of a District Justice.

§ 1-19. 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.

§ 1-20. 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.

§ 1-21. 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 less than \$200 nor 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]**
- 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 § 1-21A above shall be civilly enforced in accordance with the provisions of Ordinance No. 96-4. Offenders under these ordinances shall be subject to a civil penalty of not less than \$200 nor 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]

- 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 attorney fees collected for the violation of this article shall be paid over to the North Middleton Township general fund.
- F. Attorney fees. Where attorney 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 attorney fees shall be at the rate of \$80 per hour 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 attorney fees by resolution, all at the discretion of the Board.

§ 1-22. 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.