

ORDINANCE 4-96

TOWNSHIP OF MIDDLESEX
Cumberland County, Pennsylvania

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX,
CUMBERLAND COUNTY, PENNSYLVANIA, CREATING
CIVIL PENALTIES AND PROCEDURES FOR VIOLATION
OF NON-CRIMINAL ORDINANCES AND REPEALING
PORTIONS OF ORDINANCES INCONSISTENT HERewith

BE AND IT IS HEREBY ENACTED AND ORDAINED by the Board of
Township Supervisors in and for the Township of Middlesex,
Cumberland County, Pennsylvania, and it is hereby enacted and
ordained by the authority of the same as follows:

SECTION 1: The background of this Ordinance and the
legislative intention of the Board of Township Supervisors
("Board") in enacting it are as follows:

(a) The Township of Middlesex is a municipal
township of the second class.

(b) The General Assembly of the Commonwealth of
Pennsylvania reenacted and amended the Second Class
Township Code by P.L. 350, No. 60, on November 9, 1995,
effective May 7, 1996 (hereinafter called "Code"); and

(c) Section 1601(c) provides as follows:

"The board of supervisors may prescribe fines
not exceeding one thousand dollars (\$1,000) for a
violation of a building, housing, property
maintenance, health, fire or public safety code or
ordinance and for water, air and noise pollution
violations and not exceeding six hundred dollars
(\$600) for a violation of any other ordinance.
Any person who violates or permits the violation
of a township ordinance shall, upon being found
liable therefor in a civil enforcement proceeding
commenced by a municipality, pay the fine set by
the board of supervisors plus all court costs,
including reasonable attorney fees, incurred by a
municipality. No judgment shall be imposed until
the date of the determination of a violation by
the district justice. If the defendant neither

pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure."

(d) The Board recognizes that there are existing ordinances of this Township which are civil in nature and provides for criminal or quasi-criminal penalties for violation, and the Board intends to cause said ordinances to be modified and amended in order to comply with Section 1601(c) of the Code.

(e) The Board does not intend to modify or amend any ordinance of a criminal nature for which enabling legislation allows for criminal fines and penalties.

SECTION 2: (a) All ordinances of a civil nature heretofore enacted shall be and are hereby modified and amended to provide for civil fines or penalties in accordance with the provisions of Section 1601(c) of the Code as quoted above.

(b) In each existing ordinance where a specific criminal fine is established, the amount so stated shall become a civil fine or penalty in the same amount.

(c) The maximum civil fine or penalty for violation of the Township's Zoning Ordinance and Subdivision and Land Development Ordinances shall be and remain \$1,000.

(d) Except as provided in subsection (c) immediately above, and whenever no monetary penalty or fine is already established, the maximum civil fine or penalty shall be \$600 for each violation.

SECTION 3: The "Initiating Official" shall be the person

authorized by the Board to initiate proceedings for the violation of ordinances. The following officials and their duly appointed assistants are hereby authorized to initiate proceedings:

(a) Zoning Officer: for violations of the Zoning Ordinance and Subdivision and Land Development Ordinance.

(b) Chief of Police, or any other Police Officer at the direction of the Chief of Police: for violations of any ordinance for which criminal penalties are allowed and authorized.

(c) Ordinance Enforcement Officer: all ordinances not provided for in subparagraphs (a) and (b) immediately above.

SECTION 4: All civil proceedings for enforcement of ordinances shall be commenced in the name of the Township of Middlesex at the office of the District Justice having jurisdiction over the area of Middlesex Township. Where a specific fine or penalty is not prescribed by ordinance (as when the ordinance provides for a maximum fine or penalty), the Initiating Official shall establish the amount to be recovered in the initial complaint, citation or other first pleading, and shall include in the demand the court costs and, where appropriate, the Township's reasonable attorney fees.

SECTION 5: All civil proceedings hereunder shall be conducted pursuant to Section 1601(c) of the Code as quoted above. The Initiating Official shall have the authority to

enforce judgments recovered in such proceedings.

SECTION 6: Any person who violates or permits the violation of any ordinance of this Township for which a civil fine or penalty is allowed, shall upon being found liable therefor in a civil enforcement proceeding, pay the fine, plus all court costs, including this Township's reasonable attorney fees.

SECTION 7: Those parts of existing ordinances which provide for criminal fines and other criminal penalties in contravention of Section 1601(c) of the Code as quoted above are hereby repealed and the applicable provisions of this ordinance are substituted therein in order to provide lawful civil penalties.

SECTION 8: Those ordinances which contain criminal fines and other criminal penalties authorized by others enabling legislation permitting such criminal penalties shall be unaffected by this ordinance and shall remain in full force and effect.

SECTION 9: If any part, section, phrase or clause of this ordinance shall be held to be invalid, unlawful or unenforceable, such part, section, phrase or clause shall be deemed deleted herefrom, and the remaining portion hereof shall survive and remain in full force and effect.

SECTION 10: This Ordinance shall take effect in accordance with law.

ENACTED AND ORDAINED this 3rd day of July, 1996,

by the Board of Township Supervisors in public session lawfully assembled.

TOWNSHIP OF MIDDLESEX

By Robert M. Eppley
Chairman, Board of
Township Supervisors

ATTEST:

Gail J. Jencs
Township Secretary