

ORDINANCE NO. 1996 - 2

AN ORDINANCE OF SCHUYLKILL TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA, KNOWN AS THE CIVIL ENFORCEMENT PROCEDURE ORDINANCE, CHANGING PENALTIES FOR VARIOUS ORDINANCES IN SCHUYLKILL TOWNSHIP FROM CRIMINAL TO CIVIL; ESTABLISHING A PROCEDURE FOR FILING AND ESTABLISHING FINES FOR VARIOUS ORDINANCE VIOLATIONS; APPROVING RESOLUTION AS A MEANS OF IDENTIFYING ENFORCEMENT OFFICERS FOR VARIOUS ORDINANCES; AND ESTABLISHING PAYMENT AND AMOUNT OF FINES AND ATTORNEY'S FEES IN A CIVIL ENFORCEMENT PROCEDURE BEFORE DISTRICT JUSTICE OR COURT OF COMMON PLEAS.

WHEREAS, Act 60 of 1995, (53 P.S. § 65101) was enacted into law and is known as the Second Class Township Code, to be effective May 7, 1996; and

WHEREAS, said amended Second Class Township Code provides at Section 1601 (c) (53 P.S. § 66601) that any person who violates or permits a violation of the township ordinance shall, upon being found liable therefor in civil enforcement proceeding, commenced by a municipality, pay a fine set by the Board of Supervisors plus all court costs, including reasonable attorney's fees incurred by the Municipality; and

WHEREAS, said Act also provides that no judgment of responsibility for the fine shall be imposed until determination of a violation is made by the District Justice.

NOW, THEREFORE, it is hereby **ORDAINED** and **ENACTED** by the Supervisors of Schuylkill Township as follows:

SECTION 1: This Ordinance shall be known as the Civil Enforcement Procedure Ordinance of Schuylkill Township and shall govern the imposition of fines for violation of the Township Ordinance hereinafter set forth.

SECTION 2: The following portions of ordinances which establish a criminal penalty are hereby repealed and the fines for violation of each ordinance listed are hereby established as follows:

A. Section 9 of Ordinance 91-5 shall be amended to read: "Any person violating the provisions of this Ordinance, or furnishing false information on any application required by this Ordinance shall be fined not more than One Hundred (\$100.00) Dollars, plus costs."

B(1) Ordinance No. 91-4, which amended Ordinance No. 84-3 shall be repealed in its entirety; and, therefore,

B(2) Section 3 of Ordinance 84-3 shall be amended to read: "Any child as above designated found upon the Township streets, alleys, or public places within the Township, in violation of Section 1 of this Ordinance shall be taken into custody by the police and delivered to his or her parents, guardian, or person having the legal custody of said child. If said parent, guardian, or person having the legal custody of said child shall again allow him or her to be on said streets, alleys, or public places in violation of Section 1 of this Ordinance, said parent, guardian, or person having the legal custody of said child shall be fined not more than One Hundred (\$100.00) Dollars nor less than Ten (\$10.00) Dollars."

C. Section Five of Ordinance 91-3 shall be amended to read:
"Any person using or applying water within Schuylkill Township contrary to or in violation of the restrictions herein, and upon conviction thereof, shall be fined not more than Four Hundred (\$400.00) Dollars nor less than One Hundred (\$100.00) Dollars."

D. Section 305 (b) of Ordinance 91-2 shall be amended to read: "Any person, firm or corporation, who shall violate any provision of this code shall be fined not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars. Each day that a violation continues shall be deemed a separate offense."

E. Section 5 of Ordinance 89-2 shall be amended to read:
"Any person violating the provisions of this Ordinance shall be fined not less than One Hundred (\$100.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, plus all filing fees and attorney's fees."

F. Section 3 of Ordinance 87-2 shall be amended to read:
"Any person violating any of the provisions of this ordinance shall be subject to a fine of not less then Fifty (\$50.00) Dollars and not more than (\$100.00) Dollars."

G. Section 2.08 E of Ordinance 83-2 shall be amended to read:
"Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order, or direction of the Building Official or any other authorized employee of the township, shall pay a fine of not more than Five Hundred (\$500.00) Dollars and not less than One Hundred (\$100.00) Dollars. Each day during which any

violation of this Ordinance continues shall constitute a separate offense. In addition to the above fines, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance." The remainder of Section 2.08 E will remain as written.

H. Section 4 of Ordinance 83-1 shall be amended to read: "Any person who shall violate any provision of this ordinance shall be fined the sum of not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder."

I. Section V of Ordinance 81-1 shall be amended to read: "Any person violating any of the provisions of this Ordinance shall be fined not more than Three Hundred (\$300.00) Dollars and not less than One Hundred (\$100.00) Dollars. Each day's continued violation shall constitute a separate offense."

J. Section 4 of Ordinance No. 77-4 shall be amended to read: "Any person violating any of the provisions of this ordinance shall be fined not less than One Hundred (\$100.00) Dollars and not more than Five Hundred (\$500.00) Dollars."

K. Section 2 of Ordinance No. 77-3 shall be amended to read: "Any person, firm or corporation violating any provision of this Ordinance shall be fined not less than Fifty (\$50.00) Dollars nor more than (\$500.00) Dollars. Each day of continuing violation shall be considered to be a separate offense."

L. Section 14 of Ordinance No. 77-1 shall be amended to read:
"Any person who shall violate any of the provisions of this article shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, plus costs and attorneys' fees."

M. Section 6 of Ordinance 76-5 shall be amended to read:
"Any person, firm or corporation violating the terms of this Ordinance or any of the terms and conditions of any permit issued hereto, including any regulations applicable thereto, shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with costs and attorneys' fees."

N. Section Six of Ordinance No. 76-4 shall be amended to read: "Any person, firm, corporation or utility which shall violate any provisions of this ordinance shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with costs and attorneys' fees."

O. Section 4 of Ordinance No. 76-3 shall be amended to read:
"Any person or persons, firm or corporation who shall violate or permit, suffer or allow any one to violate any of the provisions of this Ordinance shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with costs and attorneys' fees."

P. Section 5 of Ordinance No. 7-73 shall be amended to read:
"In addition to the other remedied provided by law and by this ordinance, any person violating the provisions of this Ordinance shall be fined not less than One

Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars, together with costs and attorneys' fees."

Q. Section 5 of Ordinance No. 5-73 shall be amended to read: "Any person who or which shall violate or fail, neglect or refuse to comply with any of the provisions of this ordinance shall be fined not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars." Each days' violation shall constitute a separate offense and notice to the offender shall not be necessary in order to constitute an offense."

R. Section 8.2 of Ordinance No. 1-66 shall be amended to read: "Any person who divulges any information which is confidential under the provisions of this ordinance shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with costs and attorneys' fees."

S. Section 6 of Ordinance 1-64 shall be amended to read: "Any person who shall violate or fail to comply with any of the provisions of this Ordinance shall be fined not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars, together with costs and attorneys' fees. Each days' continuance of a violation of this Ordinance shall constitute a separate offense."

SECTION 3: The Township Supervisors shall from time to time, by resolution, nominate or appoint enforcement officers for each of the ordinances referred to above who are authorized and directed to institute civil enforcement

proceedings as required to achieve compliance with each ordinance above referred to.

SECTION 4: When the enforcement officer determines that a violation exists, he shall commence an enforcement procedure before the District Justice to collect the fines prescribed above.

SECTION 5: For a person who is not in compliance, each continuing day of violation or non-compliance with any ordinance referred to in Section 2, after the first day of violation shall be a separate offense for which the enforcement officer may seek separate fines in the same or separate proceedings.

SECTION 6: The proceeding to collect the established fines shall be commenced as a civil proceeding instituted before the District Justice who has jurisdiction for Schuylkill Township.

SECTION 7: In each action the enforcement officer shall include attorney fees and court costs until a judgment is entered, and the court shall enter the Township's legal fees and court costs in the judgment entered. (See 53 P.S. § 66601 (c)).

SECTION 8: The amounts of fines as set forth in the complaint shall be determinative upon the trier of facts, including District Justice and the Court of Common Pleas on appeal, provided that the complaint correctly sets forth the fine determined in this ordinance or subsequent ordinance of Schuylkill Township.

SECTION 9: No judgment may be imposed under this ordinance until the determination of the District Justice, or if the District Justice determination is appealed, by the Court of Common Pleas.

SECTION 10: If the defendant fails to pay a final judgment or timely appeals the fine, costs or attorney fees, Schuylkill Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure.

SECTION 11: The fines action described above under each ordinance shall be deemed to be a civil fine, not a criminal penalty.

SECTION 12: Each enforcement officer named under each of the ordinances above shall seek the assistance of the Township solicitor in connection with filing any complaint. Furthermore, the Township solicitor is hereby directed and authorized to establish a civil citation form or notice that would be forwarded to the person violating the ordinance, prior to commencing action, giving that person opportunity to pay the fine without the necessity of a court proceeding and the imposition of attorney's fees and court costs.

SECTION 13: Each enforcement officer named by the resolution shall be authorized to investigate and gather evidence to assist them in connection with the civil enforcement procedure hereinabove set forth.

SECTION 14: The Township police, municipal volunteer fire department, zoning officer, township secretary or other municipal officials are hereby authorized and encouraged to cooperate with the enforcement officer in connection with his investigation of a violation or series of violations of the ordinance.

ORDAINED and ENACTED into an Ordinance this _____ day of
_____, 1996.

SCHUYLKILL TOWNSHIP SUPERVISORS

ATTEST:
