

ORDINANCE NO. 1996-5

AN ORDINANCE OF THE TOWNSHIP OF BETHEL, BERKS COUNTY, PENNSYLVANIA, IMPLEMENTING SECTION 1601(c) OF THE SECOND CLASS TOWNSHIP CODE, AS REENACTED AND AMENDED BY P.L. 350, ACT NO. 60 OF 1995, TO ELIMINATE CRIMINAL PENALTIES AND TO PROVIDE FOR CIVIL PENALTIES IN TOWNSHIP ORDINANCES ENACTED PURSUANT TO THE SECOND CLASS TOWNSHIP CODE.

The Supervisors of the Township of Bethel, hereby find and determine as follows:

1. Public Law 350, Act No. 60 of 1995, reenacted and amended the Second Class Township Code of the Commonwealth of Pennsylvania.
2. Among the amendments to the Second Class Township Code contained in Act No. 60 of 1995 was elimination of the authority of Second Class Townships to prescribe summary criminal penalties for the violation of ordinances enacted under the Second Class Township Code.
3. Certain of the existing ordinances of Bethel Township, Berks County, contain summary criminal penalties which were enacted pursuant to the Second Class Township Code as it existed prior to its amendment and re-enactment. The penalty provisions of these ordinances became obsolete after the effective date of Act No. 60 of 1995. It is necessary to amend these ordinances to bring them into compliance with Act No. 60 of 1995.
4. Certain of the existing ordinances of Bethel Township, Berks County, contain summary criminal penalties which were enacted under statutory authority other than the Second Class Township

Code. The penalty provisions of these ordinances were not effected by the enactment of Act No. 60 of 1995.

NOW THEREFORE, the Supervisors of the Township of Bethel, hereby Ordain:

Section 1. ORDINANCE NO. 1974-1, the Bethel Township Ordinance requiring a permit for opening or cutting a public street, is hereby amended by amending SECTION SIX thereof to read as follows:

SECTION SIX. Any person, firm, corporation or utility violating or permitting the violation of any of the provisions of this Ordinance or of any of the terms and conditions of any permit issued pursuant hereto shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 2. ORDINANCE NO. 1974-2, the Bethel Township Ordinance requiring a permit for construction of a drain, culvert, footwalk, drive or driveway, or other means of ingress or egress onto a township road, is hereby amended by amending SECTION 6 thereof to read as follows:

SECTION 6. Any person, firm or corporation violating or permitting the violation of any of the provisions of this Ordinance or of any of the terms and conditions of any permit issued pursuant hereto shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each

day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 3. ORDINANCE NO. 1979-1, the Bethel Township Ordinance regarding a curfew for children under the age of sixteen (16), is hereby amended by amending Section 3 thereof to read as follows:

Section 3. Any child as above designated found upon the streets, alleys, parks or public places within the Township in violation of Section 1 of this Ordinance shall be taken into custody by the Township Police and delivered to his or her parents, guardian or a person having the legal custody of said child and report thereof made immediately to the Township Secretary, who shall make a record thereof in a book to be kept for that purpose. If said parent, guardian or person having legal custody of said child shall again allow him or her to be on said streets, alleys, parks or public places in violation of Section 1 of this Ordinance, said parent, guardian or person having the legal custody of said child so offending shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 4. ORDINANCE NO. 1985-2, the Bethel Township Cable Television Franchise Ordinance, is hereby amended by amending SECTION 18 thereof to read as follows:

SECTION 18. Penalties. Any violation by Company, its servants, agents or employees, under the provisions of this Ordinance or of any material portion or portions hereof, or the failure promptly to perform any of the material provisions

hereof, after written notice from the Township to cure same and a reasonable period to do so, or the failure of Company to exercise the rights granted pursuant hereto within six (6) months of the grant of a franchise, shall be cause for the forfeiture of such franchise and all rights thereunder to the Township. In the event of such forfeiture, Township shall notify Company of such fact and Company shall have the right to appeal same to a court of competent jurisdiction. In addition, Township may proceed to enforce this Ordinance in a civil enforcement proceeding and, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, the company shall pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 5. ORDINANCE NO. 1990-3, the Bethel Township Ordinance establishing rules, regulations and standards for the construction of roads and streets within the township, is hereby amended by amending Section 3.00 thereof to read as follows:

Section 3.00. Any person, firm or corporation violating or permitting the violation of any of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 6. ORDINANCE NO. 1990-5, the Bethel Township Ordinance establishing procedures for the use and maintenance of existing and new sewage holding tanks within the township, is

hereby amended by amending Section 11 thereof to read as follows:

Section 11. Violations. Any person, firm or corporation violating or permitting the violation of any of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 7. ORDINANCE NO. 1991-4, the Bethel Township Ordinance regulating the construction of driveways within the township, is hereby amended by amending SECTION 6 thereof to read as follows:

SECTION 6. PENALTIES FOR VIOLATIONS.

Any person, firm or corporation violating or permitting the violation of any of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 8. ORDINANCE NO. 1991-5, the Bethel Township Ordinance establishing procedures for the use and maintenance of existing and new privies within the township, is hereby amended by amending Section 10 thereof to read as follows:

Section 10. Violations. Any person, firm or corporation violating or permitting the violation of Sections 7, 8 or 9 of this Ordinance shall, upon being found liable

therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding Six Hundred Dollars (\$600.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section 9. ORDINANCE NO. 1992-2, the Bethel Township Junkyard Ordinance, is hereby amended by amending SECTION 16 thereof to read as follows:

SECTION 16. VIOLATIONS

A. Any person violating or permitting the violation of any of the provisions of this Ordinance or of any of the terms and conditions of any permit issued pursuant hereto shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding One Thousand Dollars (\$1,000.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

B. The licensed premises shall at all times be subject to inspection by the Board or its duly authorized officer for the purpose of determining whether the requirements of this Ordinance are being complied with. The license shall be subject to suspension by the Board for failure to comply with this Ordinance, or any regulations applicable to the licensed premises, and a license so suspended may be reinstated by the Board for the balance of the year for which it was issued upon compliance with the provisions of this Ordinance or such regulations and conditions. No person shall engage in business as a junk dealer in the Township during the time when the license for his junkyard or place of business shall have been suspended.

C. The Board, in its discretion, may revoke any outstanding license and refuse the issuance of a license, pursuant to this Ordinance, to any person who shall have been convicted of a felony or a misdemeanor, crimen falsi, within

a period of five (5) years prior to the date of revocation or refusal.

D. The Board may refuse to renew the license of any person who fails to maintain his junkyard in accordance with Township regulations or fails to maintain his junkyard so as to conform to the plan under which his license was issued.

Section 10. ORDINANCE NO. 1995-1, the Bethel Township Ordinance regulating and restricting outdoor fires within the township, is hereby amended by amending Section 4 thereof to read as follows:

Section 4. PENALTIES.

(a). Any person, firm or corporation violating or permitting the violation any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding One Thousand Dollars (\$1,000.00), plus all court costs, including reasonable attorneys fees. Each day's continuance of a violation of this Ordinance shall constitute a separate offense. No judgment shall be imposed until the date of a determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. If the violation requires the attendance of a Fire Company, the district Justice shall take account of the costs incurred by the Fire Company in responding to the violation in determining the amount of the fine to be levied.

(b). Any fire set, maintained or permitted to smolder in violation of this Ordinance is hereby declared to be a nuisance and shall be abatable as such by an appropriate legal action.

Section 11. Repealer. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

Section 12. Severability. If any sentence, clause, section or part of this Ordinance for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the

remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Township Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid, sentence, clause, section or part thereof not been included herein.

Section 13. Effective Date. This ordinance shall become effective five (5) days after its adoption.

ENACTED AND ORDAINED this 19th day of August, 1996.

BOARD OF SUPERVISORS OF BETHEL
TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

By: John J. Brown
Chairman

Attest: Raul W. Lerd
Secretary