

Adopted 9/11/96

HONEY BROOK TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 71-A - 1996

AN ORDINANCE OF THE TOWNSHIP OF HONEY BROOK, CHESTER COUNTY, PENNSYLVANIA AMENDING THE VIOLATION AND PENALTY PROVISIONS OF EACH HEREIN IDENTIFIED ORDINANCE IN COMPLIANCE WITH SECTION 1601 OF ACT 60 - 1995 AND PROVIDING FOR A CIVIL ENFORCEMENT PROCEEDING FOR ENFORCEMENT OF ALL SUCH TOWNSHIP ORDINANCES ADOPTED UNDER AND PURSUANT TO THE PENNSYLVANIA SECOND CLASS TOWNSHIP CODE, ACT OF MAY 1, 1993, (P.L. 103) NO. 69, AS AMENDED.

WHEREAS, the Pennsylvania Second Class Township Code, Act of May 1, 1933 (P.L. 103), No. 69, as amended, 53 P.S. §65101 et. seq. (the "Code") was substantially amended by the General Assembly of the Commonwealth of Pennsylvania by its enactment of Act No. 60 - 1995, effective, with limited exception, on May 7, 1996 ("Act 60"); and

WHEREAS, Act No. 60 amends the enforcement provisions of Section 1601 of the Code, 53 P.S. §66601, by, inter alia, providing for a civil enforcement proceeding for the enforcement of all Township ordinances adopted pursuant to the Code's enabling provisions, repealing the prior quasi criminal summary proceeding previously authorized by the Code, including the penalty of incarceration for non-payment of fines and costs; and

WHEREAS, all of the Township's ordinances adopted under and pursuant to the Code prior to the enactment of Act No. 60 mandate prosecution for violations in a quasi criminal summary proceeding and contain enforcement and penalty provisions which provide for the imposition of the penalty of incarceration for up to thirty (30) days for non-payment of any fines and costs imposed by a district justice or a court of record, and therefore must be amended in compliance with Act No. 60.

WHEREAS, by its adoption of this omnibus ordinance, it is the intention of the Board of Supervisors of Honey Brook Township to amend all of the Township's herein designated ordinances heretofore adopted pursuant to the Code by amending the penalty provision of each such ordinance to comply with the enforcement proceeding provisions required by Section 1601(c) of Act No. 60.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Honey Brook Township, Chester County, Pennsylvania, as follows:

Section I. Section 8 of Ordinance No. 15 relating to the adoption of a fire prevention code, enacted on September 14, 1970, is amended by amending the penalty provision to read as follows:

Section 8. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$100.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section II. Section 6 of Ordinance No. 19 requiring road occupancy permits, enacted on July 8, 1974, is amended by amending the penalty provision to read as follows:

Section 6. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$300.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section III. Ordinance No. 22 prohibiting trucks, except for local deliveries, on certain Township roads, enacted on May 6, 1976, is amended by amending the penalty provision to read as follows:

Ordinance No. 22. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$300.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the

Judgment pursuant to the applicable rules of civil procedure.

Section IV. Section 6(c) of Ordinance No. 24 requiring and providing for connections to available public sewer, enacted on February 24, 1977, is amended by amending the penalty provision to read as follows:

Section 6(c). Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$100.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section V. Section 10 of Ordinance No. 27 establishing criteria for installation of sewage holding tanks, enacted on December 7, 1978, is amended by amending the penalty provision to read as follows:

Section 10. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$300.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section VI. Section 3 of Ordinance No. 43 providing for capping and rendering useless certain wells, enacted on May 1, 1991, is amended by amending the penalty provision to read as follows:

Section 3. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine in an amount of not less than \$25.00 and not more than \$300.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section VII. Section 5 of Ordinance No. 50 regarding water conservation, enacted on March 11, 1992, is amended by amending the penalty provision to read as follows:

Section 5. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$500.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section VIII. Section 6 of Ordinance No. 59 regulating junkyards, enacted on October 12, 1994, is amended by amending the penalty provision to read as follows:

Section 6. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$500.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section IX. Section 13 of Ordinance No. 61 regulating parking in snow emergencies, enacted on November 9, 1994, is amended by amending the penalty provision to read as follows:

Section 13. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine in an amount of not less than \$15.00 and not more than \$50.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section X. Section 7(B) of Ordinance No. 64 requiring posting of house numbers for Chester County "911" system, enacted on April 12, 1995, is amended by amending the penalty provision to read as follows:

Section 7(B). Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$50.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section XI. Section 4 of Ordinance No. 65 enforcing the rules and regulations of NCCMA, enacted on May 10, 1995, is amended by amending the penalty provision to read as follows:

Section 4. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, pay a fine of not more than \$300.00 for each such violation plus all court costs, including reasonable attorneys' fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure.

Section XII. Section 3 of Ordinance No. 62 adopting the BOCA National Building Code, Eleventh Edition, 1990, with insertions, additions and deletions thereto, enacted on December 14, 1994, is amended to read as follows:

Section 3. Violation and Enforcement Provision. Any person who violates or permits the violation of any provision of this Ordinance or the BOCA Code, or who shall fail to comply with any of the requirements thereof, or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Building Official, or of a permit or certificate issued under the provisions of this Ordinance or the BOCA Code shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a district justice, shall pay a fine for each such violation of not more than \$300.00 plus all court costs, including reasonable attorney's fees, incurred by the Township. 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 Township may enforce the judgment pursuant to the applicable rules of civil procedure. If the Building Official determines that any permit holder is in violation of any of the provisions of this Ordinance or the BOCA Code adopted by this Ordinance, he may refuse to grant additional permits to such permit holder until all such violations have been corrected and any judgment entered by the district justice under this Section has been paid.

Section XIII. Severability. If any sentence, clause, section or part of this Ordinance is 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 hereof. It is hereby declared as the intent of the Board of 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 XIV. Effective Date. This Ordinance shall become effective five (5) days following enactment.

ENACTED AND ORDAINED this 11th day of September 1996.

ATTEST:

HONEY BROOK TOWNSHIP
BOARD OF SUPERVISORS

Ruby M. Shitman
Secretary

per meeting minutes, Ordinance 71A was passed.