

NORTH MIDDLETON TOWNSHIP  
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 2011-02

AN ORDINANCE OF THE TOWNSHIP OF NORTH MIDDLETON AMENDING AND REVISING CERTAIN PORTIONS OF THE CODE OF NORTH MIDDLETON TOWNSHIP, CHAPTERS 21, 70, 92 AND 134 AND AMENDING AND REVISING IN ENTIRETY CHAPTER 180 OF THE NORTH MIDDLETON SUBDIVISION AND LAND DEVELOPMENT ORDINANCE AND CHAPTER 204 OF THE NORTH MIDDLETON TOWNSHIP ZONING ORDINANCE AND ESTABLISHING AND ADOPTING A NEW ZONING MAP AND AN OFFICIAL MAP ESTABLISHING BOUNDARIES, MONUMENTS AND RECOGNIZED USES AND ISSUES EXISTING WITHIN NORTH MIDDLETON TOWNSHIP

The Board of Supervisors of North Middleton Township hereby ordains as follows:

Section 1. Amendments to Code, Subdivision and Land Development Ordinance, Zoning Ordinance, and adoption of Official Map.

As a necessary part of amending the North Middleton Township Code, its Subdivision and Land Development Ordinance, Zoning Ordinance and adopting an Official Map, the following Code/Subdivision and Land Development/Zoning Ordinances have been revised and amended, the text of which are attached hereto and made a part hereof by reference as if fully set out at length with deletions shown by strike-through and additions shown by insertion or underline. The Zoning Ordinance amendment contains and provides for the adoption of a new Official Zoning Map.

Chapter 21: Manager  
Chapter 70: Animals  
Chapter 92: Burning, Outdoor  
Chapter 134: Nuisances  
Chapter 180: Subdivision and Land Development  
Chapter 204: Zoning

\*\* Establishment and adoption of the "Official Map" of the Township of North Middleton, Cumberland County dated the 28th day of September, 2011 as prepared by Rettew Associates, Inc. Consulting Engineers for zoning purposes\*\*

\*\* Adoption of the new Zoning Map revising Zoning Map of the Township of North Middleton, Cumberland County dated the 28th day of September, 2011 as prepared by Rettew Associates, Inc. Consulting Engineers for zoning purposes\*\*

Section 2. Text of Amendment.

1. Grammatical and spelling errors have been corrected where necessary.
2. Minor changes have been made to correct obsolete terms and usages or provide definitions.
3. Penalty provisions have been revised where necessary to comply with the Pennsylvania Second Class Township Code, Vehicle Code, Municipalities Planning Code and Local Tax Enabling Act.
4. General revisions have been made to Ordinances and the text language has been amended to clarify meanings and application of certain Ordinances.

Section 3. Adoption of Official Map.

1. The aforesaid Official Map depicts and describes Township property and property rights, both present and proposed, including, but not limited to, Township open space reservations; Township public grounds; Township roadways and intersections, open space and parkland, and historic and cultural resources and property.
2. The property depicted as proposed Township property, including ground proposed for future public grounds, roadway, intersection, and other future improvements, and open space, greenways, and parkland shall be reserved for future taking or acquisition for public use.
3. The Township may initiate surveys of property locations for the purposes of taking action.
4. Whenever lands and/or rights-of-way and/or easements are to be acquired pursuant to the Official Map, boundary delineations by metes and bounds descriptions shall be made by a licensed surveyor.
5. The Township directs that upon adoption of this Ordinance, a copy of the "Official Map" verified by the Board of Supervisors, shall be submitted to the Recorder of Deeds of the County of Cumberland to be recorded within sixty (60) days of the effective date hereof.
6. After adoption of the Official Map, or part thereof, all streets, watercourses, and public grounds and the elements listed in Section 401 of the Pennsylvania Municipalities Planning Code on final, recorded plats which have been approved as provided by this Act shall be deemed amendments to the Official Map. Notwithstanding any of the other terms of this article, no public hearing needs to be held or public notice given if the amendment of the Official Map is the result of the addition of a plat as provided by this Ordinance.
7. For the purposes of preserving the integrity of the North Middleton Township Official Map, no permit shall be issued for any building within the lines of any street or public ground shown or laid out on the Official Map except as noted below. No person shall recover

any damages for the taking for public use of any building or improvements constructed within the lines of any street or public ground after the same shall have been included in the Official Map, and any such building or improvement shall be removed at the expense of the owner. Permits will be issued for properties identified as historic resources worthy of preservation so long as the requirements of all other applicable Township Ordinances are met and the proposed work does not materially alter the historic structure, resource or property.

8. When the property of which the reserved location forms a part cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the Board of Supervisors for the grant of a special encroachment permit to so build. Before granting any special encroachment permit authorized in this section, the Board of Supervisors may submit the application for a special encroachment permit to the North Middleton Township Planning Commission and allow the Planning Commission thirty (30) days to review and comment on the special encroachment permit and shall give public notice and hold a public hearing at which time all parties in interest shall have an opportunity to be heard.

A refusal by the Board of Supervisors to grant the special encroachment permit may be appealed by the applicant before the Zoning Hearing Board in the same manner, and within the same time limitations as is provided in Article IX of the Pennsylvania Municipalities Planning Code.

9. The Board of Supervisors may fix the time for which streets, watercourses and public grounds in the Official Map shall be deemed reserved for future taking or acquisition for public use. However, the reservation for public grounds shall lapse and become void one (1) year after an owner of such property has submitted a written notice to the Board of Supervisors announcing his intentions to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for an official permit to build a structure for private use, unless the Board of Supervisors shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the year.

#### Section 4. Adoption of Revised Zoning Map.

The aforesaid Zoning Map depicts and describes the specific zoning categorization of the property located within the Township for purposes of promoting, protecting and facilitating public health, safety, morals and general welfare and coordinating practical community development and proper density of population, emergency management preparedness, together with provision for adequate light, air, access, police protection, parking, loading, transportation, water, sewage, schools, recreational facilities, public grounds, commercial, agricultural and industrial uses and the preservation of the natural scenic and historic values within North Middleton Township. The Zoning Map is intended to be interpreted and consistent with the North Middleton Township Comprehensive Plan.

#### Section 5. Intent.

The purpose with regard to the Code, Subdivision and Land Development, Zoning Ordinance and adoption of Official Map contained in the text and map below acknowledges that

the previous Ordinance(s) have been: (1) specifically repealed, (2) superseded by the Amended Ordinance as set forth in the text attached hereto, and (3) the Official Map replaces and supersedes any prior adopted zoning map(s).

Section 6. Severability.

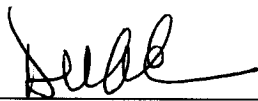
The provisions of this Ordinance are severable. Should any part of the Ordinance be declared by final court order with jurisdiction to be illegal or otherwise invalid, the balance of the Ordinance shall be unaffected by such declaration.

Section 7. Effective Date.

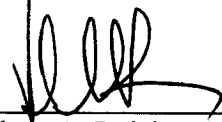
This Ordinance shall become effective by operation of law pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania.

ADOPTED AND ORDAINED this 3<sup>rd</sup> day of November 2011.

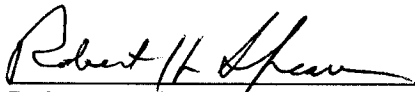
ATTEST:

  
\_\_\_\_\_  
Township Secretary

NORTH MIDDLETON TOWNSHIP  
BOARD OF SUPERVISORS

  
\_\_\_\_\_  
Robert A. Reisinger, Chairman

  
\_\_\_\_\_  
Harry Kelso, Vice Chairman

  
\_\_\_\_\_  
Robert H. Shearer, Member

  
\_\_\_\_\_  
Richard A. Bucher, Member

  
\_\_\_\_\_  
James E. Hare, Member

CERTIFICATE

I, the undersigned, Secretary of the Township of North Middleton, Cumberland County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township (the "Board"), which duly was enacted by affirmative vote of a majority of the members of the Board at a meeting held on November 3, 2011; said Ordinance duly has been recorded in the Ordinance Book of the Township; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 1 day of December, 2011.

(SEAL)

  
Secretary

## Chapter 21

### MANAGER

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| <p>§ 21-1. Title.</p> <p>§ 21-2. Creation of Office of Township Manager.</p> <p>§ 21-3. Appointment authorized.</p> <p>§ 21-4. Qualifications.</p> <p>§ 21-5. Compensation.</p> <p>§ 21-6. Bond.</p> | <p>§ 21-7. Delegation of nonlegislative powers and duties.</p> <p>§ 21-8. Duties of Township Manager.</p> <p>§ 21-9. Compatible Offices.</p> <p>§ 21-10. Support by Secretary and township employees.</p> |
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**[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton 4-21-1992 by Ord. No. 92-4. Amendments noted where applicable.]**

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#### § 21-1. Title.

This chapter shall be known and may be cited as the "North Middleton Township Manager Ordinance."

#### § 21-2. Creation of Office of Township Manager.

The Office of Township Manager is hereby created. Said Office may be filled by the Board of Supervisors by a majority vote. The creation of this Office does not create any right or vested interest in any person appointed to the Office, and the Board of Supervisors is not required to fill the Office if vacant. The Office of Township Manager is created subject to the right of the Board of Supervisors to abolish said Office at any time by ordinance.

#### § 21-3. Appointment authorized.

The Board of Supervisors shall appoint, by a majority vote of its members, one person to fill the Office of Township Manager, said appointment to be made annually. In the case of a vacancy, the Board of Supervisors shall fill said Office by a majority vote of its members. The Township Manager shall be subject to removal by the Board of Supervisors by a majority vote with cause.

#### §21.4. Qualifications.

The Township Manager shall be appointed solely on the basis of said individual's executive and administrative abilities with consideration being given for training and/or experience in municipal management as determined by the Board of Supervisors. It is preferred that the Township Manager be a resident of the Township at the time of appointment or shortly thereafter. The Board of Supervisors may, in its discretion, require that the Township Manager reside a reasonable distance from the North Middleton Township Municipal Building.

**§ 21-5. Compensation.**

The compensation of the Township Manager shall be set annually by resolution of the Board of Supervisors and shall be paid out of the general fund of the township.

**§ 21-6. Bond.**

The Township Manager prior to commencement of duties shall give a bond with a corporate or other sufficient surety as approved by the Board of Supervisors, in the sum of \$100,000, conditioned for the faithful performance of the duties of this Office. The premium for said bond shall be paid for by the township.

**§ 21-7. Delegation of nonlegislative powers and duties.**

The Board of Supervisors may delegate, subject to recall, any of its nonlegislative powers and duties to the Township Manager.

**§ 21-8. Duties of Township Manager.**

Subject to recall by ordinance, the duties and powers of the Township Manager shall include, but not necessarily be limited to, the following:

- A. Perform duties required under Township Code and other state laws and regulations.
- B. Attend all regular township meetings and special meetings where required by the Board of Supervisors.
- C. Attend meetings of boards, commissions, agencies and committees of and pertaining to the township and/or adjacent municipalities where affecting the township, as required and determined by the Board of Supervisors.
- D. Manager shall be the chief administrative officer of the township, carrying out and implementing ordinances of the township with respect to management thereof. Manager shall supervise and be responsible for the activities of all municipal departments, employees and independent contractors, except the Police Department and except where such supervision and responsibilities are in conflict with the Township Code or other laws.
- E. Manager shall be responsible to the Board of Supervisors for carrying out and implementing all policies and programs established by the Board, unless otherwise provided by the Board.
- F. Manager may recommend for appointment, suspension and/or removal of township employees and appointed administrative officers except as otherwise provided by law or ordinance.
- G. Make recommendations to the Board of Supervisors concerning policy formulation.

- H. Prepare and submit the annual budget to the Board of Supervisors no later than November 1, together with recommended tax rates and such explanatory comment as deemed desirable.
- I. Administer approved budget.
- J. Report regularly and at least monthly concerning the conduct of township affairs and submit annually with the budget no later than November 1, a general report on the status of the township projects, programs, agencies, committees, commissions, authorities and intergovernmental agreements and relationships.
- K. Cooperate with news media concerning release of information on conduct of township affairs concerning policies and programs and activities approved by the Board of Supervisors, except confidential matters relating to personnel, real or personal property purchases, contracts of employment and other similar matters in a stage of negotiations, prior to acceptance and/or approval of the Board.
- L. Supervise and be responsible for enforcement of laws and ordinances and regulations relating thereto, and in said capacity to be responsible for and direct the activities of the Secretary, Treasurer, Code Enforcement Officer(s), Zoning Officer(s), Building Permit Officer(s) and similar or related offices in accordance with law and ordinance.
- M. Prepare agenda for the Board of Supervisor meetings, making said agenda available to the press and public where requested.
- N. Coordinate the projects and activities of and facilitate communication of, between and among township municipal authorities, Planning Commission, Zoning Hearing Board, Recreation Board and other agencies and committees to the extent consistent with and ordinance.
- O. Prepare specifications for advertisement and do other acts necessary for implementation of contracts for township matters, subject to the approval and action of the Board of Supervisors.
- P. Perform such functions as are required under lease agreement, lease back, management agreement or any other with authorities with respect to operation of sewage and water and other improvements or for other purposes as authorized under state law, including, as determined by motion of the Board of Supervisors, operation, maintenance and administration of water and sewer systems, and including preparation of agenda for Authority meetings, and where required preparation and submission of annual budget to the Carlisle Suburban Authority together with such explanatory comment deemed desirable, and to administer the approved budget.
- Q. Recommend to the Board of Supervisors a qualified person to act as Manager and to exercise the duties of Manager during temporary absence or disability of Manager, and to instruct and ensure adequate training and orientation of said temporary Manager.
- R. Ensure compliance with federal, state and local laws and regulations with respect to occupational safety and hazards.

- S. He/she shall be the Purchasing Officer of the township and shall purchase, in accordance with the provisions of the Township Code, all supplies and equipment for the various agencies, boards, departments and other offices of the township. He shall keep an account of all purchases and shall from time to time, or when directed by the Board of Supervisors, make a full written report thereof. He/she shall also issue rules and regulations, subject to the approval of the Board, governing the requisition and purchasing of all municipal supplies and equipment.
- T. All complaints regarding services or personnel of the township shall be referred to the Office of the Manager. He, or an officer designated by him, shall investigate and resolve such complaints and the Manager shall report thereon to the Board of Supervisors.
- U. Prepare for and provide data and support for judicial and quasi-judicial proceedings.
- V. Perform such other duties as directed by the Board of Supervisors.

**§ 21-9. Compatible Offices.**

The Office of Township Manager shall not be deemed incompatible with the Office of Township Secretary, Township Treasurer or any other township office or employment, except that of Township Supervisor.

**§ 21-10. Support by Secretary and township employees.**

The Township Secretary and all township employees shall provide to the Township Manager such administrative and other support as is required for the proper performance in execution of the duties of the Office of Township Manager.

## Chapter 70

### ANIMALS

**§70-1. Short Title.**

**§70-2. Definitions.**

**§70-3. Conduct, Activities and Conditions Constituting Violations.**

**§70-4. Certain Conduct, Activities and Conditions Exempt.**

**§70-5. Violations and Penalties.**

**[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton 7-1-1982 by Ordinance No. 82.7. Amendments noted where applicable]**

#### GENERAL REFERENCES

Nuisances – See Chapter 134.

Parks and Recreation Areas – See Chapter 140

Zoning – See Chapter 204

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**§70-1. Short Title.**

This chapter shall be known and may be cited as the “North Middleton Township Domestic and Non-Domesticated Animal Ordinance”.

**§70-2. Definitions.**

The following terms shall be construed in this chapter to have the following meanings, except in those instances where the context clearly indicates otherwise:

**OWNER** – Any person having a right of property in any domestic or non-domesticated animal, or having custody or control of any such animal, or any person who permits a domestic or non-domesticated animal (other than wildlife in its natural habitat) to remain on or around his or her property.

**RUNNING AT LARGE** – Being upon any public highway, street, alley, park or any other public land or upon property of another person other than the owner and not being accompanied by nor under the control of the owner.

**§70.3 Conduct, Activities and Conditions Constituting Violations.**

The following activities or conditions are hereby declared to be unlawful:

- A. No owner of any dog, domestic or non-domesticated animal shall allow or permit such animal to make loud or harsh noises, on a continuous basis, to the extent that it shall disturb or interfere with the peace, quiet, rest or sleep of other persons. Each day's violation of the provisions of this subsection shall constitute a separate offense.
- B. No owner of any dog, domestic or non-domesticated animal shall suffer or permit such animal to run at large in North Middleton Township, Cumberland County, Pennsylvania. Each day's violation of the provisions of this subsection shall constitute a separate offense.
- C. No owner of any dog, domestic or no-domesticated animal shall allow such animal to defecate or urinate upon any public sidewalk, walkway or property of any other person. Each day's violation of the provisions of this subsection shall constitute a separate offense.
- D. Keeping of more than six (6) domesticated animals.

#### **§70.4 Conduct, Activities and Conditions Constituting Exempt.**

The provisions of this chapter shall not apply to the owner of any domestic or non-domesticated animal whose business or livelihood depends primarily on the possession of said domestic or non-domesticated animal.

#### **§70.5 Violations and Penalties.[Amended 1-17-2002 by Ordinance No. 2002-1]**

- A. Any person who violates any provision of §70-3A of this chapter shall be given notice thereof, either in writing or orally, by the North Middleton Township Police Department or other North Middleton Township employees. Any person who shall violate §70-3A of this chapter after receiving one warning of such violation shall, upon being found liable therefore in a summary enforcement proceeding commenced under the Pennsylvania Rules of Criminal Procedure by the Township before a District Justice, pay a fine of not less than \$200 nor 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. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Criminal 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.

- B. Any person who violates any provision of §70-3B of this chapter shall be given notice thereof, either in writing or orally, by the North Middleton Township Police Department or other North Middleton Township employees. Any person who shall violate §70-3B of this chapter after receiving one warning of such violation shall, upon being found liable therefore in a summary enforcement proceeding commenced under the Pennsylvania Rules of Criminal Procedure by the Township before a District Justice, pay a fine of not less than \$200 nor 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. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Criminal 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.
- C. Any person who violates any provision of §70-3C of this chapter shall be given notice thereof, either in writing or orally, by the North Middleton Township Police Department or other North Middleton Township employees. The notice shall request the said person to remove or to cause to be removed said excrement from any public sidewalk, walkway or property of any other person. Any person who shall violate §70-3C of this chapter after receiving one warning of such violation shall, or any person who refuses, upon proper notice, to remove or cause to be removed said excrement from any public sidewalk, walkway or property of any other person, shall, upon being found liable therefore in a summary enforcement proceeding commenced under the Pennsylvania Rules of Criminal Procedure by the Township before a District Justice, pay a fine of not less than \$200 nor 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. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Criminal 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.
- D. Any person who violates any provision of §70-3D of this chapter shall be given notice thereof, either in writing or orally, by the North Middleton Township Police Department or other North Middleton Township employees. Any person

who shall violate §70-3D of this chapter after receiving notice and ten (10) days to abate such violation shall, upon being found liable therefore in a summary enforcement proceeding commenced under the Pennsylvania Rules of Criminal Procedure by the Township before a District Justice, pay a fine of not less than \$200 nor 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. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Criminal 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.

## Chapter 92

### BURNING, OUTDOOR

**§ 92-1. Short Title.**

**§ 92-2. Definitions.**

**§ 92-3. Fires prohibited on public property; exceptions.**

**§ 92-4. Restrictions on fires on private property.**

**§ 92-5. Temporary restrictions. (Amended 1-17-2002 by Ord. No. 2002-1)**

**§ 92-6. Violations and penalties.**

**§ 92-1. Short title.**

This chapter shall be known and may be cited as the "North Middleton Township Outdoor Burning Ordinance."

**§ 92-2. Definitions.**

The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different or contrary meaning:

**MATERIAL** — Material permitted to be burned outdoors will exclude all municipal waste materials and Recyclable Materials and Solid Waste as set forth in Chapter 170 of the North Middleton Township Code, which are required to be properly disposed of under local, state, and federal solid waste management and recycling regulations.

**PERSON** — Any natural person or persons, partnership, association, corporation, firm, fictitious name or any other individual or business entity or their agents.

**PROHIBITED MATERIALS** — All those items set forth in § 92-4A.

**RECREATIONAL/CEREMONIAL FIRES** — Any fire held on private property when contained in man-made brick or stone fire pits or other commercially made chimineas, fireplaces, fire rings, etc. which are customarily associated with outdoor living and patio areas and which are of a size and are being utilized for the purposes of ceremony or recreation and not merely for burning or disposal of prohibited materials.

**SMOLDERING** — The same meaning as "burning," and any smoldering shall be deemed a burning.

**§ 92-3. Fires prohibited on public property; exceptions.**

No person shall set, cause to be set, maintain or permit to be maintained any fire of any kind, including the burning of any prohibited material, upon any of the streets, sidewalks, alleys, or

public grounds in North Middleton Township, unless specifically authorized by the Board of Supervisors or its appointed agent, or, in the case of the municipal parks, in appliances designed for the preparation of food.

**§ 92-4. Restrictions on fires on private property.**

No person shall cause or permit to be caused any outdoor or open burning of any kind, including the burning of prohibited material, upon any private property owned or occupied in North Middleton Township, except under the following conditions:

- A. No outdoor or open burning of any Materials including but not limited to municipal waste material, Recyclable Material, or Solid Waste, as regulated by local, state, or federal solid waste management and recycling control procedures, hazardous waste materials or scrap lumber shall be permitted.
- B. No outdoor and open burning shall be permitted within 50 feet of any building, whether or not owned by any person setting the fire and whether or not occupied, nor within 40 feet of any property line, excepting only recreational/ceremonial fires and fires set solely for cooking.
- C. All burning must take place in fireplaces, noncombustible containers or incinerators, or appliances designed to prepare foods.
- D. All fires shall be maintained and kept under the supervision of an adult person actually at the scene of the fire at all times.
- E. All fires must be entirely extinguished and not permitted to burn or smolder.
- F. Exceptions. The requirements of Subsections C through E do not apply where the open burning operations do not create a nuisance or safety hazard as may be determined by Township official or Police Department and result from:
  - (1) A fire set to prevent or abate a fire hazard, when approved by the Department of Environmental Protection (DEP), or other appropriate state or federal agency, and set by or under the supervision of a public officer.
  - (2) Any fire set for the purpose of instructing personnel in fire fighting when approved by the DEP, or other appropriate state or federal agency.
  - (3) A fire set for the prevention and control of disease or pests, when approved by the DEP, or other appropriate state or federal agency.
  - (4) A fire set in conjunction with the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.
  - (5) Recreational/ceremonial fires subject to the conditions contained herein.
  - (6) A fire set solely for cooking food subject to the other restrictions contained herein.
  - (7) A fire set in order to clear land, provided that the proper authorities are notified of the controlled burn.
  - (8) Any fire allowed pursuant to Chapter 93 Titled Outdoor Wood Fire Boilers as set forth within this Code.

**All burning that pertains to Section 92-4(F) through and including Section 92-4 F(1) through (5) and 92-4(7), the person or persons responsible for the burning shall contact the township zoning officer and county control prior to the start of the burning. The**

**person or persons responsible for the burning shall state the date and time of the start of the burning and the projected length of the time of the burning period.**

**§ 92-5. Temporary restrictions. [Amended 1-17-2002 by Ord. No. 2002-1]**

The Board of Supervisors, by resolution, when it is deemed to be in the interest of public health and safety, may impose a temporary partial or full ban on burning, including but not limited to the following: open burning, burning in receptacles, campfires, charcoal grilles, exterior fireplaces, agricultural purposes and for the purpose of clearing land. Such a ban shall be reviewed from time to time and lifted when the condition(s) resulting in the imposing of the ban no longer exist. In addition, the Board of Supervisors, by resolution, may delegate to the Township Fire Chief or to the Township Manager the authority to impose a temporary partial or full ban on burning, as well as the lifting thereof, based upon the criteria and under the circumstances set forth herein. The imposition by the Township Fire Chief or Township Manager of a partial or full ban on burning, as well as the lifting thereof, is to be ratified and confirmed by the Board of Supervisors, by resolution, at the next regularly scheduled meeting of the Board of Supervisors following the action taken by the Township Fire Marshal or Township Manager.

**§ 92-6. Violations and penalties.**

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

## **Chapter 134**

### **NUISANCES**

**§ 134-1. Short title.**

**§ 134-2. Definitions.**

**§ 134-3. Activities or conditions  
constituting a nuisance.**

**§ 134-4. Unlawful to maintain nuisances.**

**§ 134-5. Notice of violations.**

**§ 134-6. Violations and penalties.**

**§ 134-7. Actions in equity authorized.**

**[HISTORY: Adopted by the Board of Supervisors of the Township of North Middleton 12-30-1980 by Ord. No. 80-15. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Outdoor burning — See Ch. 92.**

**Brush, grass and weeds — See Ch. 76.**

**Junkyards — See Ch. 120.**

**Solid waste and recycling — See Ch. 170.**

**§ 134-1. Short title.**

This chapter shall be known and may be cited as the "North Middleton Township Nuisance Ordinance."

**§ 134-2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**GARBAGE** – All table refuse, animal and vegetable matter, pieces, parts, remains of meat, fish and fowl, fruits, vegetables and other parts thereof and all other articles or materials ordinarily used for food which have become unfit for such use or which are, for any reason, discarded.

**JUNK** – Used materials, discarded materials, or both, including, but not limited to, waste, paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof which are being stored or awaiting potential re-use or alternate disposal.

**PERSON** — An individual, firm, partnership or corporation, or any other legal entity.

**PUBLIC PLACE** — Any public street, highway, road, alley, park, playground, public building, or vacant lot.

**RUBBISH** – Branches, trees, sawdust, chips, shavings, wood, wooden wear, leather, rags, grass, straw, manure and all other solid combustible materials not included in this section under the definition of garbage.

**USED GREASE OR RECYCLABLE BIO FUELS** – Any form of used grease whether vegetable, synthetic or other composition intended to be stored, processed, and later utilized as recyclable fuel/bio fuel for combustion or operation of any motorized equipment or vehicle.

**ABANDONED OR JUNKED VEHICLE** ---- Any vehicle (a) without a current, valid license plate; or (b) with inspection stickers which are more than sixty (60) days beyond their expiration date.

**§ 134-3. Activities or conditions constituting a nuisance.**

The following activities or conditions are hereby declared to be nuisances and are prohibited:

- A. Accumulations of garbage junk, bio fuels and/or rubbish on private or public property.
- B. Unlicensed storage of abandoned or junked automobiles on private or public property. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- C. The operation of any offensive manufacture or business.
- D. Maintaining or permitting the existence of any vegetative matter on or near any public thoroughfare which hinders or obscures the view of motorists of any road, thoroughfare, traffic device or sign.

E. Any other activity or condition conducted or existing on public or private property which in law and in fact constitutes a public nuisance.

F. The discharge of sump-pump and or foundation drain water onto lands other than that lot which is the source of said water.

Exception ; the use of a recorded storm water management drainage swale for the transport of sump pump and or foundation water is permitted. However, in no case will the outlet of the discharge pipe for the sump pump and or the foundation drain line be within 20 foot of any property line, nor will the discharge water cause erosion.

G. The discharge water from swimming pool during the act or process of seasonal draining, maintenance or removal of a pool onto lands other than that lot which is the source of said water.

Exception; the use of a recorded storm water management drainage swale for the transport of discharged pool water is permitted. However in no case will the outlet of the discharge pipe for the pool be within 20 feet of any property line, and in no case shall it cross any property line nor will the Discharge water cause erosion.

H. Residential and/or Commercial construction activities between the hours of 8:00 pm and 6:30 am prevailing time.

I. On any lot containing a residential use, the storage of bio fuel outside a fully enclosed structure, or storage in a non-approved grease recycling storage container.

#### **§ 134-4. Unlawful to maintain nuisances.**

A. It is hereby declared to be unlawful for any person owning, leasing, occupying or having a present interest in any land in North Middleton Township, or being present in North Middleton Township, to engage in any activities constituting a nuisance, or permit the existence of any condition constituting a nuisance.

B. Each five-day continuance of a violation of the provisions of this chapter shall constitute a separate offense.

#### **§ 134-5. Notice of violations.**

It shall be duty of the Township Manager or his agent or agents, upon complaint of citizens and property owners or otherwise, to investigate an alleged nuisance and, if a nuisance exists, to notify the person allegedly in violation of the following:

A. The belief of the township that a nuisance exists for which he is responsible;

B. A description of the location and nature of the alleged nuisance;

C. That the nuisance must be abated or removed by said person within five days of receipt of notice;

D. That failure to comply with the directions of the township may result in the abatement or removal of the nuisance by the township or its authorized representative and the cost of said

removal or abatement shall be assessed against the violator, together with the additional amount of 10% of such cost, to be collected by summary proceedings or in the manner provided for the collection of municipal claims or by an action of assumpsit without the filing of a complaint; provided, however, that the imposition of such cost and additional amount may be in addition to any other penalty provided for in this chapter.

**§ 134-6. Violations and penalties.**

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each five-day continuance of a violation of the provisions of this chapter shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

**§ 134-7. Actions in equity authorized.**

In the exercise of the powers herein conferred, the Board of Supervisors may institute proceedings in courts of equity.