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Article IX — Enforcement

§ 67-901 Violations and Penalties.

(a) **Civil Penalty.** Any person who violates any provision of this Chapter shall be subject to a civil penalty as set forth in subsections (b) and (c). Nothing contained in this section shall be construed or interpreted to grant to any person or entity, other than the Borough, the right to commence any action for enforcement of any provision of this Chapter.

(b) **Amount of Penalty for Violations of § 67-503 or § 67-809.** The amount of the penalty for any violation of § 67-503 (relating to Dumpster Permits) or § 67-809 (relating to Adulteration of Drop-Off Recyclables) shall be—

- (1) One Hundred Fifty Dollars (\$150.00) for a first offense; and
- (2) Five Hundred Fifty Dollars (\$500.00) for a second or subsequent offense.

(c) **Amount of Penalty for Other Violations of this Chapter.** The amount of the penalty for any violation(s) of this Chapter other than for violations of § 67-503 or § 67-809 shall be—

- (1) Twenty-five Dollars (\$25.00) for a first offense;
- (2) Fifty Dollars (\$50.00) for a second offense; and
- (3) Seventy-five Dollars (\$75.00) for a third or subsequent offense.

(d) **Initial Determination of Violation.** Council hereby delegates the initial determination of violations under this Chapter to any police officer of the Borough. The police officer shall serve notice of the violation(s) upon the person determined to have violated this Chapter in person or by first class U.S. mail addressed to that person at his/her last known address. The notice shall include a description of the violation(s), the provision(s) of the Codified Ordinances violated (*i.e.* section, subsection, paragraph, etc.), the penalty imposed for each violation, and the time for payment prior to the commencement of a civil enforcement proceeding. Service shall be complete on the date of in-person service or the date of mailing.

(e) **Civil Enforcement Proceeding.** When the penalty imposed for a violation(s) of this Chapter is not voluntarily paid to the Borough within fifteen (15) calendar days after service of the violation notice under subsection (d), the Borough Manager shall initiate a civil enforcement proceeding in the name of the Borough before a magisterial district judge (or, where applicable under Borough Code § 3321(5), 53 PA. STAT. ANN. § 48321(5), the Lehigh County Court of Common Pleas). The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person found to have violated this Chapter in the civil enforcement proceeding shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings, in addition to the penalty provided.

(f) **Separate Offenses.** Each day or portion of a day that a given violation exists or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Chapter shall constitute a separate offense.

(g) Equitable Remedies. In addition to or in lieu of enforcement of this Chapter through a civil action, the Borough may enforce this Chapter through an action in equity brought in the Court of Common Pleas of Lehigh County. The Borough Solicitor shall have authority to commence the action in equity on behalf of the Borough without explicit authorization of Council in any situation where the Solicitor or the President of Council deems it advisable to act before the next regular Council meeting.

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