

ORDINANCE NO. O2019-35

AN ORDINANCE TO ENACT CHAPTER 214 (CODE COMPLIANCE: CIVIL OFFENSES & FINES) AND AMEND SECTIONS 1436.06 (REMEDIAL ACTION) AND 1436.99 (PENALTY) OF THE MIDDLETOWN CODIFIED ORDINANCES.

BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio, that:

Section 1

Chapter 214 (Code Compliance: Civil Offenses & Fines) of the Codified Ordinances is hereby enacted to read as set forth in Exhibit "A", attached hereto and incorporated by reference.

Section 2

Section 1436.06 (Remedial Action) of the Codified Ordinances is hereby amended as set forth in Exhibit "B", attached hereto, and made a part hereof.

Section 3

Section 1436.99 (Penalty) of the Codified Ordinances is hereby amended as set forth in Exhibit "C", attached hereto, and made a part hereof.

Section 4

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

/s/ Lawrence P. Mulligan, Jr.
Lawrence P. Mulligan, Jr., Mayor

1st Reading: May 21, 2019
2nd Reading: June 4, 2019
Adopted: June 4, 2019
Effective: July 5, 2019

Attest: /s/ Amy Schenck
Clerk of the City Council

**CHAPTER 214
CODE COMPLIANCE: CIVIL OFFENSES & FINES**

§ 214.01 CIVIL OFFENSE.

(A) A civil offense means an offense against the City of Middletown set forth in the Middletown Codified Ordinances made subject to a civil fine by this chapter. Charging a person with a civil offense is an alternative to criminal prosecution. A person may not be charged with a civil offense if that person has been charged with a misdemeanor for the same offense. A person charged with a civil offense may not be arrested for the commission of the offense.

(B) The sections and chapters of the Middletown Codified Ordinances that can be civil offenses are as follows:

Codified Ordinance No.	Title [Chapter or further description in parentheses, as needed]	Civil Offense Class	Subject to Reduction
404.02	Resisting an enforcing official; Traffic	A	No
404.07	Furnishing false information incident to traffic citation; Traffic	E	No
412.01	Placing injurious material or obstruction in street	E	No
412.02	Zones of quiet	A	No
412.03	Play streets	A	No
412.04	Toy vehicles on roadway	A	No
412.05	Freeway use prohibited by pedestrians, bicycles and animals	A	No
414.07	Unauthorized signs and signals, hiding from view, advertising	A	No
414.08	Alteration, injury or removal of traffic control devices	A	No
414.09	Unauthorized possession or sale of devices	C	No
414.10	Signal preemption devices; prohibitions	B	No
416.03	Right-of-way yielded by pedestrian; crossing roadways	A	No
416.04	Moving in crosswalks	A	No
416.05	Walking on sidewalks and streets	A	No
416.06	Soliciting rides or business; riding on outside of vehicle or in cargo storage area	A	No
416.07	Passing through bridge signals or railroad barriers	A	No
416.08	Right-of-way of public safety vehicles	A	No
416.10	Intoxication	A	No
452.01	Prohibition against parking on streets or highways	A	No
452.03	Prohibited standing or parking places	A	No
452.04	Manner of parallel and angle parking; handicapped persons	A	No
452.06	Unattended vehicles; duty to lock ignition, remove key, set brake, etc.	A	No
452.07	Opening doors on side available to traffic	A	No

452.08	Displaying vehicle for sale upon roadway; repairing, washing, etc.	A	No
452.10	Vehicles receiving or unloading freight	A	No
452.11	Commercial and heavy vehicles; detached trailers	A	No
452.12	Buses and taxicabs; bus and taxicab stands	A	No
452.16	Unlicensed or inoperable motor vehicles	A	No
618.01	Dogs and other animals running at large	A	No
618.06	Sale of baby poultry or rabbits; coloring baby poultry or rabbits	A	No
618.07	Barking or howling dogs	A	No
618.08	Registration of dogs required	A	No
618.09	Hindering capture of unregistered dog	A	No
618.095	Dogs required to wear tags	A	No
618.10	Unlawful tags	A	No
618.11	Rabies quarantine	A	No
618.12	Animals damaging gardens or lawns	A	No
618.13	Harboring of bees; notification to abate	A	No
618.14	Killing, injuring or possessing birds; damaging birds' eggs or nest; use of leg hold traps	A	No
618.15	Enticing away dogs	A	No
618.16	Permitting dog fights	A	No
618.21	Keeping animals in proximity to dwellings	A	No
618.22	Responsibility of owners for collection and removal of dog feces on public or private property; exemption of guide dogs under control of blind persons	A	No
618.23	Confinement of dogs	C	No
634.02	Offenses (Minors Curfew)	A	No
642.06	Injuring vines, bushes, trees or crops	B	No
642.23	Purchase from minors of secondhand builders' and plumbers' hardware	A	No
642.24	Billposting	A	No
644.04	Permit required (Parades)	E	No
644.14	Obstruction of parades	E	No
644.15	Driving through parades	B	No
644.16	Parking on parade routes	B	No
644.18	Signs and posters (Parades)	A	No
660.02	Spreading contagion	D	No
660.03	Littering	A	No
660.035	Dumping	C	No
660.045	Accumulation of rubbish, garbage or litter	B	No
660.05	Duty to keep sidewalks in repair and clean	A	No
660.06	Abandoned refrigerators and airtight containers	D	No
660.07	Storage of junk vehicles	A	No
660.075	Storage of automobile parts or tires in public view	A	No
660.08	Open burning	A	No
660.09	Barricades and warning lights	A	No
660.10	Sidewalk obstructions; damage or injury	A	No

660.11	Notice to fill lots, remove putrid substances	A	No
660.12	Fences	A	No
660.13	Bathing, swimming and wading in public pools and watercourses	A	No
660.14	Spitting	A	No
660.15	Smoking on buses	A	No
660.16	Smoking in places of public assembly	A	No
660.165	Smoking in City Building	A	No
660.17	Construction and maintenance of sidewalk gratings; compliance with notice to make safe and secure	A	No
660.18	Mixing mortar on paved streets	A	No
660.19	Carbolic acid	A	No
660.20	Dumping in streams or watercourses	B	No
660.21	Yard maintenance	A	No
678.02	Weed control	B	Yes
805.05	Permit required (Adult Entertainment)	E	Yes
805.14	Rules governing conduct within an adult entertainment establishment	A	No
805.99(a)(2)	Penalty (Owner or Person in Control – Adult Entertainment)	B	No
806.01	License required (Advertising, Billposting & Handbills)	A	Yes
806.03	Distribution of handbills, cards, placards and posters	A	No
808.01	License required (Amusements)	A	Yes
814.02	License required (Coin-Operated Amusement Devices)	A	Yes
814.06	Prizes to players	A	No
816.02	License required (Dance Halls)	A	Yes
816.06	Dance permit	A	Yes
816.08	Prohibited acts	A	No
818.02	License required (Distressed Merchandise Sales)	A	Yes
818.13	Hours of sale	A	No
818.14	Commingling of merchandise	A	No
818.15	Additions to inventoried merchandise	A	No
818.16	Misrepresentations	A	No
818.17	Attendance of licensee	A	No
819.03	Permits required (Emergency Alarms)	A	Yes
835.02	License required (Secondhand Dealers & Swap Shops)	E	Yes
835.04	License transfer; display (Secondhand Dealers & Swap Shops)	B	No
835.05	Change in ownership, interest, or employees	B	No
835.051	Identification of employees	B	No
835.08	Records of transactions	C	No
835.09	Use of fictitious name or address	C	No
835.10	Purchases prohibited	C	No
835.11	Specify second-hand merchandise	B	No
844.02	License required (Peddlers, Solicitors & Vendors)	A	Yes
844.05	Vending from stands and other structures	A	Yes
848.01	License required (Poolrooms & Billiard Rooms)	A	Yes

848.04	Hours of operation	A	No
848.05	Card playing	A	No
848.06	Obstruction of view of interior	A	No
848.07	Minors	A	No
852.02	Ambulance license required; ambulance driver's, attendant's or attendant-driver's license required; exceptions	A	Yes
852.05	Equipment & operations standards (Private Ambulances)	A	Yes
852.11	Response to emergency calls	B	No
852.12	Operation of ambulances	B	No
864.02	Commission required (Special Police Officers)	A	Yes
872.02	Taxicab license required	A	Yes
872.03	Liability insurance required	A	No
872.05	License required; Fee; Display; Use; Refusal of issuance (Taxicabs)	A	No
872.06	Permissible soliciting (Taxicabs)	A	No
872.07	Discharge of passengers	A	No
872.08	Standards for taxicab cleanliness and operation	A	No
872.10	Fare receipts	A	No
872.11	Fare schedule	A	No
874.02	Duration and hours of sales (Garage Sales)	A	No
890.18	Violations (Earned Income Tax Effective Through December 31, 2015)	C	No
891.051	Collection at source; withholding from qualifying wages (Municipal Income Tax Effective Beginning January 1, 2016)	E	Yes
891.14(a)	Confidentiality	E	No
891.15	Fraud	E	No
891.99(b)	Violations; penalty (Disclosure of information from IRS)	E	No
891.99(d)	Violations; penalty (Municipal Income Tax Effective Beginning January 1, 2016)	A	No
894.04	Tax to be separately stated and charged (Transient Occupancy Tax)	A	No
894.06	Reporting and remitting (Transient Occupancy Tax)	A	Yes
894.10	Records (Transient Occupancy Tax)	A	No
896.05	Levy of Tax (Admissions Tax)	A	No
896.06	Registration (Admissions Tax)	A	Yes
896.10	Violations (Admissions Tax)	A	No
1022.01	Duty to keep sidewalks in repair and clean	A	No
1022.02	Work permit required	A	Yes
1024.01	Obstructing or changing flow of drainage ditch	A	No
1024.02	Installation of driveway culvert and roadside ditch piping in right-of-way; permit required	A	Yes
1026.05	Curb cuts	A	Yes
1030.01	Trimming of trees, etc. overhanging public streets, sidewalks and lateral strips	A	No

1030.04	Topping of trees in the right-of-way or on public property prohibited	A	No
1034.04	Rights-of-way administration	B	Yes
1034.16	Unauthorized use of public rights-of-way	B	Yes
1036.02	Director of Public Works and/or their designee's consent required (Café Seating; Banners and Non-Permanent Amenities Installed Within Public Right-Of-Way)	C	No
1036.06	Special obligations for those seeking licenses (Café Seating; Banners and Non-Permanent Amenities Installed Within Public Right-Of-Way)	C	No
1037.02	Sale of food or beverages from a mobile vending unit	D	Yes
1037.04	Mobile food vending on private property	B	No
1037.07	Mobile food vending; operating restrictions	B	No
1040.10	Connection fees (Sewers)	A	No
1042.09	Promulgation of Rules and Regulations (Water)	A	No
1048.04	Promulgation of rules and regulations (Utility Poles)	A	No
1050.11	Promulgation of rules and regulations (Storm Water)	A	No
1050.23	Prohibitions (Storm Water – Discharges into the Storm Water System)	A	No
1050.33	Prohibitions (Storm Water - Erosion and Sediment Control)	A	No
1050.34	Promulgation of rules and regulations (Storm Water - Erosion and Sediment Control)	A	No
1060.01	Promulgation of rules and regulations (Airport)	A	No
1066.051	Disposal or removal of personal property after an eviction	B	No
1066.06	Promulgation of rules and regulations (Garbage & Rubbish Collection)	A	No
1070.02	Prohibited conduct (Parks)	A	No
1070.02 (b)(2)	Transport any waste material to be placed in park waste receptacles (Parks – Prohibited Conduct)	B	No
1070.02 (c)(4)	Leash Required (Parks – Prohibited Conduct)	B	No
1070.02 (c)(5)	Dogs which are properly licensed and leashed or any service animal (Parks – Prohibited Conduct)	B	No
1070.02 (d)(4)	Use of park equipment (Parks – Prohibited Conduct)	D	No
1070.02 (d)(1) or (2)	Illegal drugs or alcohol (Parks – Prohibited Conduct)	E	No
1070.02 (g)(1) or (2)	Fireworks and weapons (Parks – Prohibited Conduct)	E	No
1070.02 (i)(2)	Riding horses or drive all-terrain vehicles, mini or dirt bikes (Parks – Prohibited Conduct)	C	No
1228.01	Violations (Development Code)	F	No
1402.99	Penalty; equitable remedy (Residential Code of Ohio)	A	Yes
1404.99	Penalty; equitable remedy (Ohio Building Code)	A	Yes
1406.02	Demolition permits	A	Yes

1408.99	Penalty (Precautionary Measures During Construction)	A	Yes
1410.99	Penalty (Use Of Sidewalks and Streets During Construction)	A	Yes
1411.01(b)	Jurisdiction (Flood Damage Prevention: Compliance)	A	Yes
1412.99	Penalty; equitable remedy (Ohio Mechanical Code)	A	Yes
1416.02	License and registration required (Registration of HVAC Contractors)	A	Yes
1416.08	Display of registration and registration card (Registration of HVAC Contractors)	A	No
1416.09	Display of name and license number (Registration of HVAC Contractors)	A	No
1416.10	Unregistered personnel on job site (Registration of HVAC Contractors)	A	No
1418.01	Permit required (HVAC)	A	Yes
1420.99	Penalty; equitable remedy (National Electric Code)	A	Yes
1422.02	License and registration required (Registration of Electricians)	A	Yes
1422.08	Display of registration and registration card (Registration of Electricians)	A	No
1422.09	Display of name and license number (Registration of Electricians)	A	No
1422.10	Unregistered personnel on job site (Registration of Electricians)	A	No
1424.99	Penalty; equitable remedy (Electrical Permits & Inspections)	A	Yes
1426.99	Penalty; equitable remedy (Ohio Plumbing Code)	A	Yes
1428.02	License and registration required (Registration of Plumbers)	A	Yes
1428.08	Display of registration and registration card (Registration of Plumbers)	A	No
1428.09	Display of name and license number (Registration of Plumbers)	A	No
1428.10	Unregistered personnel on job site (Registration of Plumbers)	A	No
1430.02	Registration required (Registration of Underground Utilities Contractors)	A	Yes
1430.07	Display of registration and registration card (Registration of Underground Utilities Contractors)	A	No
1430.08	Display of name (Registration of Underground Utilities Contractors)	A	No
1430.09	Unregistered personnel on job site (Registration of Underground Utilities Contractors)	A	No
1430.12	Application for permit (Sewer Connection)	A	Yes
1430.13	Notice of Proposed Connection	A	No
1430.14	Rules and regulations (Installation, connection and discharge of house sewers and private disposal systems)	A	No
1432.01	Permit for plumbing required; inspection	A	Yes

1432.03	Approval of plans; emergencies (Plumbing: Permits & Inspections)	A	No
1432.09	Discharge of effluent (Plumbing: Permits & Inspections)	A	No
1434.02	Compliance with chapter (Awnings, Canopies and Marquees in Downtown Districts)	A	No
1436.06	Remedial action (Property Maintenance)	A	No
1438.99	Penalty (Fences)	A	No
1444.01	Certain buildings prohibited from moving	A	No
1444.02	House mover's license required	A	No
1444.03	Permit required (Moving of Buildings and Houses)	A	Yes
1444.04	Red light warnings at night (Moving of Buildings and Houses)	A	No
1448.02	Permit required; exemptions (Storage of Flammable Liquids)	A	Yes
1448.06	Test required (Storage of Flammable Liquids)	A	No
1450.03	Plans; permit (Private Swimming Pool)	A	Yes
1450.11	Tests (Private Swimming Pool)	A	No
1452.02	Permit required; exemptions (Medical Gases)	A	Yes
1452.04	Medical gas permit and inspection fees	A	No
1452.06	Inspection and testing required (Medical Gases)	A	No
1454.02	Notification requirement (Foreclosure Actions)	A	No
1454.03	Person responsible for maintenance (Foreclosure Actions)	A	No
1604.99	Penalty (Fire Prevention Code: Standards)	D	No
1608.06	Failure to cooperate with fire investigator (Fire Prevention Code: Administration & Enforcement)	A	No
1612.01	Use of fire hydrants (Fire Prevention Code: Miscellaneous Regulations)	A	No
1612.02	Dumping gasoline, etc. into sewers (Fire Prevention Code: Miscellaneous Regulations)	D	No
1612.03	Paper balloons (Fire Prevention Code: Miscellaneous Regulations)	D	No
1810.02	Rabies vaccinations required (Rabies Control)	A	Yes
1810.06	Wild and feral animals (Rabies Control)	A	No
1810.99	Penalty (Rabies Control)	A	No
1822.99	Penalty (Food Service Operation)	A	Yes
1830.01	Cleanliness required; notice to abate nuisance (Dwellings)	A	No
1830.99	Penalty (Dwellings)	A	No
1838.01	License required; exemptions (Trailers)	A	Yes
1840.99	Penalty (Swimming Pools)	A	No
1860.01	Application approval fee; annual renewal fee (Tattooing and Body Piercing Establishments)	A	Yes

§ 214.02 CLASSIFICATION OF CIVIL OFFENSES.

(A) *Class A Civil Offenses.* A person who violates a standard of conduct set forth in a section or chapter of the Middletown Codified Ordinances listed in § 214.01(B) as a Class A offense is liable for the civil fine specified in § 214.99 for a Class A Civil Offense. If a person has previously been found to have violated the same provision of the Middletown Codified Ordinances within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 214.99 for a second offender of a Class A Civil Offense, which fine is not subject to reduction for correction of the violation.

(B) *Class B Civil Offenses.* A person who violates a standard of conduct set forth in a section or chapter of the Middletown Codified Ordinances listed in § 214.01(B) as a Class B offense is liable for the civil fine specified in § 214.99 for a Class B Civil Offense. If a person has previously been found to have violated the same provision of the code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 214.99 for a second offender of a Class B Civil Offense, which fine is not subject to reduction for correction of the violation.

(C) *Class C Civil Offenses.* A person who violates a standard of conduct set forth in a section or chapter of the Middletown Codified Ordinances listed in § 214.01(B) as a Class C offense is liable for the civil fine specified in § 214.99 for a Class C Civil Offense. If a person has previously been found to have violated the same provision of the Middletown Codified Ordinances within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 214.99 for a second offender of a Class C Civil Offense, which fine is not subject to reduction for correction of the violation.

(D) *Class D Civil Offenses.* A person who violates a standard of conduct set forth in a section or chapter of the Middletown Codified Ordinances listed in § 214.01(B) as a Class D offense is liable for the civil fine specified in § 214.99 for a Class E Civil Offense. If a person has previously been found to have violated the same provision of the Middletown Codified Ordinances within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine specified in § 214.99 for a second offender of a Class D Civil Offense, which fine is not subject to reduction for correction of the violation.

(E) *Class E Civil Offenses.* A person who violates a standard of conduct set forth in a section or chapter of the Middletown Codified Ordinances listed in § 214.01(B) as a Class E offense is liable for the civil fine specified in § 214.99 for a Class E Civil Offense. If a person has previously been found to have violated the same provision of the Middletown Codified Ordinances within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for a second offender specified in § 214.99 for a Class E Offense, which fine is not subject to reduction for correction of the violation.

§ 214.03 NOTICE OF CIVIL OFFENSE AND CIVIL FINE; PROCEDURES.

(A) A city official charged with enforcement of the Middletown Codified Ordinances may issue a notice of civil offense and civil fine to a person found to have committed a civil offense.

(B) A notice of civil offense and civil fine must advise the person served:

- (1) That unless a written answer is filed or the civil fine paid within 10 calendar days from the date of the notice, the fine will double;
 - (2) That a hearing will be held if requested;
 - (3) That failure to appear at a requested hearing will be considered an admission of the civil offense;
 - (4) That all available collection remedies and costs of collection will be pursued in the event the civil fine and delinquent charges are not timely paid; and
 - (5) That the civil fine otherwise due may be reduced if the notice is for an offense that is subject to reduction if the offense is corrected.
- (C) A notice of civil offense and civil fine:
- (1) Must state the date that the notice is issued;
 - (2) Must identify the person being charged if known to the issuing city official;
 - (3) Indicate the offense charged, the civil fine for the offense, and the date, time and location of the offense charged;
 - (4) Be signed and attested to by the issuing city official; and
 - (5) If the person charged is present, the issuing city official may personally serve the person charged with a copy of the notice.
- (D) The issuing city official must serve the notice of civil offense and civil fine in one of the following manners:
- (1) The notice may be served:
 - (a) personally on the person responsible for the offense; or
 - (b) by United States certified mail, return receipt requested.
 - (i) If attempted service by certified mail is returned “refused”, the notice may be sent by ordinary United States mail at the same address. The mailing shall be evidenced by a certificate of mailing certified by the person sending such mailing. Service shall be deemed complete three (3) days after the certificate of mailing.
 - (ii) If attempted service by certified mail is returned “unclaimed”, the notice may be sent by ordinary United States mail at the same address. The mailing shall be evidenced by a certificate of mailing certified by the person sending such mailing. Service shall be deemed complete three (3) days after the certificate of mailing, provided the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
 - (2) If the notice involves an offense which occurred on or immediately adjacent to the real property owned, occupied or controlled by the person being charged, the notice may be constructively served by posting a copy of the notice in a conspicuous location on the real property and by mailing a copy of the notice to the person by first class U.S. mail to the address of the property owner as indicated in the public record of the county auditor in the county where the property is located; or
 - (3) If the notice relates to an offense involving a motor vehicle, the notice may be constructively served by posting a copy of the notice on the motor vehicle and by mailing a copy of the notice to the person responsible for the offense by first class U.S. mail.

(E) The original of a notice of civil offense and civil fine issued pursuant to this section or a true copy of it is a record kept in the ordinary course of business of the city and is prima-facie evidence of the facts it contains.

§ 214.04 ANSWER TO NOTICE OF CIVIL OFFENSE.

(A) A person served with a notice charging a civil offense must file a written answer to the charge. The answer may be delivered in person or mailed to the City. An answer must be filed within 10 calendar days from the date of service of the notice. The answer may:

- (1) Admit that the person committed the offense by payment of the civil fine specified in the notice;
- (2) Admit that the person committed the offense and, for those offenses that provide for a reduction in civil fine on proof of correction, offer proof that the person has corrected the offense;
- (3) Deny that the person committed the offense and request a hearing. If the person desires the presence of the city official who issued the notice at the hearing, the person must request their presence in his or her answer; or
- (4) If the person served has taken an administrative appeal authorized by the Middletown Codified Ordinances from an order on which the offense was based, the person may request that the time for answering the notice of civil offense be continued until the appeal has been finally resolved.

(B) A person who admits the commission of the offense for which a notice was issued must pay the civil fine arising out of the offense to the City.

§ 214.05 HEARINGS.

(A) A person may request a hearing before a hearing examiner to contest the commission of a civil offense or to offer proof of correction of a civil offense. The written request for hearing shall be filed with the Office of Administrative Hearings. The Office of Administrative Hearings shall set a date for the hearing and notify the person, in writing, of the date, time and location of the hearing. The hearing shall be public and a record of the hearing shall be maintained. The hearing may be informal, but all testimony shall be under oath.

(B) All hearings shall be scheduled within 10 calendar days of receipt of a request for a hearing. Hearings will be held within 30 calendar days from the date the request for a hearing is filed. Any hearing date may be modified if such modification is agreed to by the person charged, by the city official who issued the charge and by the hearing examiner, or if such modification is necessary in the interest of justice.

(C) The hearing examiner shall enter into the record of the proceedings the notice of the civil offense and civil fine, the filing of or failure to file an answer, the substance of the answer, a finding of liability, the civil fine due, payments, delinquency and collection charges, and other relevant information.

(D) The hearing examiner shall issue a written decision and make findings of fact from the record and conclusions of law in support of the decision within 10 calendar days from close of the

hearing. The findings and conclusions shall demonstrate that the decision is consistent with applicable laws, ordinances, regulations and the interest of justice. Any unpaid civil fine is due and must be paid within 10 calendar days after the date of the hearing examiner's decision.

(E) If the person has taken an administrative appeal authorized by the Middletown Codified Ordinances from an order on which the offense was based, the hearing examiner must extend the time for answering the notice of civil offense until the appeal has been finally resolved.

§ 214.06 CORRECTION OF VIOLATION.

(A) A person charged with a violation of the Middletown Codified Ordinances and served with a notice of civil offense and civil fine specified as subject to reduction for correction of the violation in § 214.01(B) may offer proof of the correction to the hearing examiner. The offer of proof of correction may be submitted in person or, to avoid the necessity of personal appearance, may be submitted as affidavits and other document evidence, by mail. The hearing examiner who receives an answer with an offer of proof of correction shall verify whether the violation has been corrected by inquiry to the city department which issued the notice. If sufficient proof of correction is provided, the hearing examiner is not required to hold a hearing and can proceed with imposing the civil fine.

(B) For those offenses that provide for a reduction in civil fine on proof of correction, on being satisfied that the offense has been corrected, the hearing examiner shall reduce the otherwise applicable civil fine by 50%. If the civil fine is reduced and the person previously paid the civil fine, the amount paid in excess of the revised civil fine shall be refunded to the person. If the civil fine is reduced and the person has not previously paid the civil fine, the person must pay only the amount of the civil fine as reduced. An unpaid civil fine is due and must be paid within 10 calendar days after the determination of the hearing examiner.

(C) Section § 214.06 is not applicable to second offenders, as described in Section § 214.02 of this ordinance.

§ 214.07 DEFAULT.

A person who is personally or constructively served with notice of a civil offense and civil fine and fails to answer within the time provided by § 214.04, or fails to attend a requested hearing, is a person in default, and the civil fine shall be deemed delinquent. The amount due is as specified by § 214.99 for the class of the offense charged.

§ 214.08 REQUEST TO SET ASIDE DEFAULT AND DELINQUENCY CHARGES.

A person subject to a civil fine entered after default may request to have the default set aside. A hearing examiner may set aside a default on a showing that the person had no actual knowledge of the notice of civil offense and civil fine or that the default should be excused in the interest of justice.

§ 214.09 APPEAL OF HEARING EXAMINER’S DECISION.

(A) Decisions of the Hearing Examiner are considered final orders for cases presented before the Office of Administrative Hearings.

(B) Appeals to the Court of Common Pleas may be taken as permitted by the Ohio Revised Code.

§ 214.10 CIVIL PROCEEDINGS.

Whenever an officer charged with the enforcement of the Middletown Codified Ordinances is: (1) satisfied that a provision that officer is charged to enforce, or a law in force in the city applicable to the same subject matter, has been violated; or (2) that an order or direction made in pursuance of the enforcement of this chapter has not been complied with, or is being disregarded; and (3) whenever that officer is satisfied that civil proceedings are necessary for the enforcement of the Middletown Codified Ordinances or laws, to restrain violations thereof, that officer may request the Law Division to bring civil proceedings. Civil proceedings may be brought in the name of the city, and may include, among other things, claims for injunction, mandatory relief, restraining orders, damages, the appointment of a receiver, and such other relief as may be allowed in law or equity. Institution of civil proceedings does not exclude criminal proceedings as authorized by the Middletown Codified Ordinances or charging a person with a civil offense as authorized by this chapter.

§ 214.11 ADMINISTRATIVE REGULATIONS.

The City Manager may adopt administrative regulations for the conduct of hearings and for the enforcement of the Middletown Codified Ordinances through the issuance of notices of civil offenses.

§ 214.12 FREEDOM FROM IMPROPER INFLUENCE.

(A) No member of Council, member of the city administration, party to any proceedings before a hearing examiner, or any other person shall interfere with, attempt to interfere with, or improperly influence or attempt to improperly influence a hearing examiner in the performance of the duties of office.

(B) A hearing examiner may not conduct or participate in any hearing or decision in which the hearing examiner or any of the following persons has a direct or substantial financial interest: a spouse, brother, sister, child, parent, or in-law of the hearing examiner, or business firm or organization in which the hearing examiner has a substantial interest. The hearing examiner shall promptly report to the City Manager any attempt at interference or improper influence or any actual or potential conflict prior to such hearing.

(C) Wherever it may be shown to the satisfaction of the City Manager that the hearing examiner was subjected to improper influence, interference or interest, such improper influence, interference or interest shall be grounds for vacating any decision made by the hearing examiner in such proceedings.

§ 214.13 EX PARTE COMMUNICATIONS PROHIBITED.

A person may not communicate with a hearing examiner to influence a decision in a matter pending before a hearing examiner other than at a public hearing or in a writing that is made part of the record of the proceeding. This provision shall not prohibit communication between a hearing examiner and any member of the administration assigned to assist or give legal counsel to the hearing examiner in the pending proceeding.

§ 214.14 SAVINGS.

This chapter does not affect any act done or committed in violation of any former ordinance relating to the same subject, or any suit or proceeding now pending in court for the violation of the provisions of any former ordinance, or any cause or causes of action accrued or existing under such ordinance, but all proceedings or prosecutions now pending shall be conducted to final determination irrespective of this chapter.

§ 214.99 CIVIL FINES.

	<i>Civil Fines</i>			
<i>Offense</i>	<i>First Offender</i>	<i>Second Offender</i>	<i>If Delinquent*</i>	<i>If Sent for Collection</i>
Class A	\$50	\$100	2x civil fines	\$150
Class B	\$75	\$150	2x civil fines	\$300
Class C	\$150	\$300	2x civil fines	\$500
Class D	\$500	\$1,000	2x civil fines	\$1,250
Class E	\$750	\$1,500	2x civil fines	\$1,800
Class F	\$150	\$250	2x civil fines	\$500

*The doubling of the civil fine for delinquency applies to the civil fine imposed whether it be as a first or second offender

The City of Middletown, the State of Ohio, the United States government, nor any city, federal or state agency or political subdivision is liable for a civil fine imposed pursuant to this chapter.

EXHIBIT “B”

§ 1436.06 REMEDIAL ACTION.

(a) If the owner and/or occupant of a structure subject to abatement of a nuisance under § 1436.01 fails to comply with the notices and/or orders issued by the Chief Building Official in accordance with the IPMC, the City may **pursue any of the following remedies, except as limited in subsection (b) below:**

- (1) Prosecute the owner in accordance with the IPMC; ~~and/or~~
- (2) **Impose a civil penalty in accordance with Chapter 214 of the Codified Ordinances; ~~or~~**
- (3) Enter the premises and take remedial steps to abate the violation. If the abatement requires repair, closures, placarding or other temporary safeguards, the City shall charge the owner and/or occupant of the structure, who failed to comply with the notices and/or orders issued in accordance with this section, an amount equal to two and one-half times the actual costs of abating the nuisance. If the abatement results in demolition of a structure or structures, the charge shall be equal to one and one-quarter times the cost of demolition. The City may either:
 - A. Seek and recover judgment against the owner for the costs of the action necessary to abate the nuisance; or
 - B. Certify the cost of said abatement, including cost of service or publication of notice, by the Clerk of City Council to the County Auditor to be placed on the tax duplicate as a lien upon the premises, to be collected as other taxes and returned to the City, as provided in Ohio R.C. 715.261.

(b) The remedies provided in this section are cumulative except where specifically stated otherwise, and are not intended to preclude or waive other remedial actions available to the City under the IPMC, as adopted in § 1436.01, local ordinances, State law, or the common law. **The imposition of a civil penalty for a specific violation under this section in accordance with Chapter 214 of the Codified Ordinances precludes prosecution for that specific violation, but does not preclude subsequent violations of a similar nature from being prosecuted as a criminal offense. A separate offense shall be deemed committed each day during or on which a violation or non-compliance occurs or continues.**

EXHIBIT "C"

1436.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter, is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for a first offense. For a second or subsequent offense, the person is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00), or imprisoned for not more than 30 days, or both. ~~A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.~~

(b) The application of the penalty provided in division (a) hereof shall not be deemed to preclude the enforced removal of prohibited conditions or the application of any other equitable remedy.