

CHAPTER XIV

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Part 1

Grass and Weeds

Section 101. Vegetative Growth a Nuisance Under Certain Conditions. No person, firm, corporation or other entity owning or occupying any real property (the "Premises") within the Township of Spring, Berks County, Pennsylvania, (the "Township") excepting only a Premises being used or occupied for agricultural purposes in accordance with sound agricultural practices, shall permit any grass, weeds or vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such Premises so as not to exceed a height of eight inches (8") on any property, the principal use of which is residential, and not to exceed a height of eighteen inches (18') on any property, the principal use of which is other than residential, or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit, or to create or produce pollen. Any grass, weeds or other vegetation growing upon a Premises in the Township, excepting only a Premises being used or occupied for agricultural purposes in accordance with sound agricultural practices, in violation of any of the provisions of this Part is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township. (Ordinance No. 295, May 12, 2003, Section 1; Amended by Ordinance No. 376, May 21, 2010, Section 1; Amended by Ordinance No. 376, May 24, 2010, Section 1)

Section 102. Exemption. The Board of Supervisors shall have the sole and exclusive right to exempt any Premises from the above provisions based upon their conclusion that (i) an exemption is warranted due to the environment and aesthetic benefits as well as considerations of economic efficiency as a result of the Premises being allowed to become a meadow and (ii) such exemption shall not be detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township. Said exemption may be revoked at any time in the sole and absolute discretion of the Board of Supervisors. (Ordinance No. 295, May 12, 2003, Section 1)

Section 103. Responsibility for Removing, Cutting or Trimming. The owner of a Premises not otherwise exempted above, or the occupant of a Premises not so exempted, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such Premises in violation of the provisions of Section 101 of this Part. (Ordinance No. 295, May 12, 2003, Section 1)

Section 104. Notice to Remove, Trim or Cut; Municipality May Do Work and Collect Cost and Additional Amount. The Board of Supervisors, or any officer or employee of the Township designated thereby for this purpose, is hereby authorized to give notice (the "Notice"), by personal service or by United States mail, to the owner or occupant, as the case may be, of a Premises not so exempted whereon grass, weeds or other vegetation is growing or remaining in violation of the provisions of Section 101 of this Part. Said Notice shall direct and require such owner or occupant to remove, trim

or cut such grass, weeds or vegetation so as to conform to the requirements of this Part, within seven (7) days after issuance of such Notice. Whenever, in the judgment of the Board of Supervisors, or any officer or employee of the Township designated thereby for this purpose, it shall appear to be impracticable to give Notice as above provided, either because the owner or occupant cannot readily be found or because a search for the owner or occupant would entail unreasonable delay, the Board of Supervisors, or any officer or employee of the Township designated thereby for that purpose, shall give Notice by posting conspicuously on the Premises where such nuisance exists. Said posted Notice shall direct and require that such nuisance be abated within seven (7) days. In case any person, firm, corporation or other entity shall neglect, fail or refuse to comply with such Notice within the period of time stated therein, the Board of Supervisors, or any officer or employee of the Township designated thereby for this purpose, may order the removal, trimming or cutting of such grass, weeds or vegetation, and the cost thereof, together with a penalty of ten percent (10%) of the cost thereof plus attorney's fees, shall be collected by the Township from such person, firm, corporation or other entity, in the manner provided by law. The taking of actions as herein stated shall not preclude the Township from instituting summary proceedings against any person, firm corporation or other entity in violation of this Part. (Ordinance No. 295, May 12, 2003, Section 1)

Section 105. Penalties for Violation. Any person, firm, corporation or other entity who shall violate any provision of this Part may, upon conviction thereof before a District Justice, have prescribed by the Board of Supervisors criminal fines not to exceed one thousand dollars (\$1,000.00) per violation, and may have prescribed imprisonment to the extent allowed by law for the punishment of summary offenses. Each day that a violation of this Part continues after notice shall constitute a separate offense. The penalties referred to in Section 104 of this Part are in addition to the Township's recovery of costs and charges referred to in this Section 105 of this Part. (Ordinance No. 295, May 12, 2003, Section 1)

Section 106. Severability. If any sentence, clause, or section of this Part 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, or sections of this Part. It is hereby declared as the intent of the Board of Supervisors that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ordinance No. 295, May 12, 2003, Section 1)

Part 2

Nuisances

Section 201. Definitions. The following words, as used in this Part, shall have the meanings hereby respectively ascribed thereto:

(A) Nuisance - any use of property within the Township of Spring or any condition upon any property within the said Township that, other than infrequently or occasionally, shall cause or result in annoyance or disturbance to persons beyond the boundaries of such property; interference to the health and/or safety of persons beyond the boundaries of such property; and/or disturbance to or interference with the peaceful use of the property of others in the Township, in any case taking into consideration the location of the use or condition, and the nature and condition of the surrounding neighborhood.

(B) Person - any natural person, partnership, association, firm or corporation.

In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ordinance No. 124, August 25, 1975, Section 1)

Section 202. Unlawful to Create Nuisance. It shall be unlawful for any person to create or maintain any nuisance anywhere within the limits of the Township of Spring. (Ordinance No. 124, August 25, 1975, Section 2)

Section 203. Abatement of Nuisance; Authority for Township to Abate. Any person who shall create or maintain any nuisance anywhere within the Township of Spring shall, within ten (10) days after notice from the Board of Supervisors to do so, remove or abate such nuisance. If such person shall fail, neglect or refuse to remove or abate such nuisance within such time limit, the Board of Supervisors shall have authority, in person or by its agents and/or employees, to cause the removal or abatement of such nuisance, and in so doing, shall have authority to enter upon the property of such person in default. Thereupon, the Board shall collect the cost and expense of such abatement or removal, from the person who created and/or maintained such nuisance, such person having failed, neglected or refused to remove or abate such nuisance, in the manner provided for the collection of municipal claims or by an action of assumpsit without the filing of a claim. Provided: such cost and expense may be in addition to any penalty imposed under the fourth section of this Part. (Ordinance No. 124, August 25, 1975, Section 3)

Section 204. Penalty for Violation. Any person violating any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, and, in default of payment of such fines and costs, to imprisonment for not more than thirty (30) days. Provided: each violation of any provision of this Part, and each day the same is continued, shall be deemed a separate offense. (Ordinance No. 124, August 25, 1975, Section 4)

Section 205. Availability of Other Remedies. This Part shall not be construed to be the sole means for abatement of nuisances within the Township of Spring, and nothing shall preclude any person from proceeding individually or with other injured persons, to effect the abatement of a private nuisance. Furthermore, in the exercise of the powers herein conferred, the Township may institute proceedings in courts of equity. (Ordinance No. 124, August 25, 1975, Section 5)

Part 3

Graffiti

Section 301. Graffiti is a Public Nuisance. The Board of Supervisors find that graffiti is a public nuisance. Graffiti is offensive, contributes to neighborhood deterioration, lends to the depreciation of property defaced by graffiti and the surrounding property and tends to remain on property unless promptly removed. The Board of Supervisors must take all reasonable measures to prevent and eradicate graffiti in order to minimize its detrimental impact upon the health, safety and welfare of the public. (Ordinance No. 360, September 8, 2008, Section 1)

Section 302. Definitions. The following words, terms and phrases, when used within Part 3 of this Chapter shall have the following meanings:

"Graffiti" - Any inscription, work, symbol, figure, mark or design that is etched, scrawled, stained, drawn, painted on or adhered to any property's surface without the express consent of the property owner or the property owner's agent, including, but not limited to any wall, underpass, overpass, trestle, tree, sign, pole, post, building, fixture or other improvement whether permanent or temporary, regardless of content or nature of the material that has been applied, and which is visible from any public property or public right-of-way, or from any private property other than the property on which the graffiti exists. Graffiti shall not include temporary, water soluble markings, symbols and inscriptions.

"Graffiti Implement" - any implement capable of marking a surface, including, but not limited to aerosol or pressurized paint containers, markers, gum labels, paint brushes and tools capable of etching or scaring. Graffiti Implement shall not include implements which make temporary marks that are water soluble, such as chalk.

"Gum Labels" -- any material such as, but not limited to, decals, stickers, posters or labels which are backed with a glue or adhesive material which after being affixed to property cannot be removed from the property in an intact condition with minimal effort.

"Minor" - any person under the age of 18.

"Perpetrator" - any Person convicted, adjudicated or otherwise determined to be liable under this Part.

"Person" - any individual, firm, partnership, association, corporation, company or organization of any kind.

“Property” - all public and private property.

“Township” - Township of Spring.

(Ordinance No. 360, September 8, 2008, Section 1)

Section 303. Prohibition of Graffiti. No person shall place or cause to be placed on any Property in the Township or on any Property which is visible to anyone within the Township. (Ordinance No. 360, September 8, 2008, Section 1)

Section 304. Possession of Graffiti Implements. It shall be illegal for a Minor to possess Graffiti Implement(s) on any Property unless the Property owner has consented to the Minor’s possession of the Graffiti Impalement on such Property. (Ordinance No. 360, September 8, 2008, Section 1)

Section 305. Removal of Graffiti. No Person owning Property within the Township shall allow Graffiti visible to the public to remain on such Person’s Property. (Ordinance No. 360, September 8, 2008, Section 1)

Section 306. Notice to Remove Graffiti. Upon discovering Graffiti on private property, any Person authorized by the Township Board of Supervisors shall issue written notice to the property owner, agent or occupant to promptly remove the Graffiti. If Graffiti is not removed by the Person, agent or occupant within ten (10) days of the mailing of the first notice to remove, a second notice to remove the Graffiti shall be issued, authorizing the Township or agent of the Township to enter the property and remove the Graffiti at the property owner’s expense. The failure to remove the Graffiti within ten (10) days of the second notice shall constitute a violation of this Part. (Ordinance No. 360, September 8, 2008, Section 1)

Section 307. Remedies.

(A) Fine. Any Person who shall violate, fail, neglect or refuse to comply with any provision of this Part shall, upon conviction or adjudication by summary delinquency proceeding shall be sentenced to pay a fine no less than one hundred dollars (\$100) and no more than one thousand dollars (\$1,000), plus the cost of prosecution and the cost of the removal of the Graffiti and repair of the Property or in default of payment, shall be subject to imprisonment or detention not exceeding thirty (30) days. Each day a violation of this Part continues, shall count as a separate offense;

(B) Penalties. Except where the legal fees, administrative and filing costs exceed the cost of removal, a bill for the cost of removal shall be delivered to the Property owner, occupier or authorized agent of the Property owner or

Perpetrator and in the event of non-payment, the Township may file a lien against the Property or sue the Perpetrator for such costs. Liability for the cost of removal shall be in addition to liability for any fine imposed; or

(C) Mitigation. In lieu of or in mitigation of such fines and penalties; upon agreement with or among the Perpetrator, as well as, if appropriate, the District Attorney or representative of the Township, the Property owner or other identifiable victims, the Perpetrator may participate in the Berks County Graffiti Abatement Program.

(Ordinance No. 360, September 8, 2008, Section 1)

Section 308. Conflicts. Whenever the requirements of this Part are in conflict with other Parts, the most restrictive, or those imposing a higher standard shall be imposed. (Ordinance No. 360, September 8, 2008, Section 1)

Section 309. Severability. The provisions of this Part are severable. If any section, clause sentence, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, pars or provisions of this Part. It is hereby declared to the intent of the Township that this Part would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision has not been included herein. (Ordinance No. 360, September 8, 2008, Section 1)