

CHAPTER XIV

HEALTH AND SAFETY

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Part 1

Grass and Weeds

Section 101. Cutting of Grass, Weeds and Certain Other Vegetation Required. All persons, firms or corporations owning or occupying any property within the Township of Tilden, Berks County, Pennsylvania shall cut any or all grass, weeds or any other vegetation whatsoever not edible or planted for some useful or ornamental purpose, which throws off any unpleasant or noxious odor, or conceals any filthy deposit, or creates or produces pollen, on or before June 30 and again on or before August 31 of each year. (Ordinance No. 79, June 5, 1990, Section 2; as amended by Ordinance No. 86, August 6, 1991, Section 1; as further amended by Ordinance No. 129, August 1, 2000, Section 1)

Section 102. Responsibility for Removal, Trimming, or Cutting. The owner of any premises, or both the occupant and owner of the premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds, or other vegetation growing or remaining upon such premises in violation of the provisions of the first section of this Part. (Ordinance No. 79, June 5, 1990, Section 3)

Section 103. Notice to Remove, Trim or Cut; Township May Do Work and Collect Cost Plus Penalty from Defaulting Owner or Occupant. The Board of Supervisors, or any officer, employee, or other servant or designee of the Township of Tilden designated thereby for the purpose, is hereby authorized to give notice by personal service or by the United State registered mail, return receipt requested, to the owner or occupant, as the case may be, of any premises wherever grass, weeds, or other vegetation is growing or remaining in violation of the provisions of the first section of this Part, directing and requiring such occupant to remove, trim or cut such grass, weeds or vegetation, so as to conform to the requirements of this Part within five (5) days after issuance of such notice. In case any person, firm, or corporation shall neglect, fail or refuse to comply with such notice, within the period of time state therein, the Township authorities may remove, cut or trim such grass, weeds or vegetation, and the cost thereof, together with any additional penalty authorized by the law, may be collected by the Township from such person, firm or corporation, in the manner provided by law. (Ordinance No. 79, June 5, 1990, Section 4)

Section 104. Penalties for Violation. Any Person, partnership, corporation or other entity who or which has failed, neglected or refused to comply with any of the provisions of this Part or violated or permitted the violation of the provisions of this Part shall be subject to a penalty of at least One Hundred and 00/100 Dollars(\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, and in the event the penalty imposed for the violation of this Part is not voluntarily paid to the Township, the

Township shall initiate a civil enforcement proceeding before a District Justice. 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. (Ordinance No. 79, June 5, 1990, Section 5; as amended by Ordinance No. 113, March 4, 1997, Section 20)

Section 105. Availability of Other Remedies. This Part shall not be construed to be the sole means to compel the removal, trimming or cutting of grass, weeds or other vegetation growing or remaining upon such premises, as herein defined, in violation of the provisions of the second section of this Part, and nothing shall preclude any person from proceeding individually or with other injured persons, to effect the removal, trimming or cutting of all grass, weeds or other vegetation growing or remaining upon such premises. Furthermore, in the exercise of the powers herein conferred, the Township may institute proceedings in the courts of equity or law for the purpose of compelling compliance with this Part. (Ordinance No. 79, June 5, 1990, Section 6)

Part 2

Graffiti

Section 201. 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. 192, March 14, 2009, Section 1)

Section 202. Definitions. The following words, terms and phrases, when used within this Part 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 scarring. 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 Tilden.

(Ordinance No. 192, March 14, 2009, Section 1)

Section 203. Prohibition of Graffiti. No person shall place Graffiti or cause Graffiti to be placed on any Property in the Township or on any Property which is visible to anyone within the Township. (Ordinance No. 192, March 14, 2009, Section 1)

Section 204. 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 Implement on such Property. (Ordinance No. 192, March 14, 2009, Section 1)

Section 205. 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. 192, March 14, 2009, Section 1)

Section 206. 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. 192, March 14, 2009, Section 1)

Section 207. 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 \$100 and no more than \$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. 192, March 14, 2009, Section 1)

Section 208. 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. 192, March 14, 2009, Section 1)

Section 209. 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, parts or provisions of this Part. It is hereby declared to be the intent of the Township that this Part would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein. (Ordinance No. 192, March 14, 2009, Section 1)

