

ORDINANCE NO. 95-02

AN ORDINANCE OF WEST MIDDLETOWN BOROUGH, WASHINGTON COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES AND RESTRICTING THE HEIGHT OF GRASS, WEEDS AND OTHER VEGETATION ON PRIVATE OR PUBLIC PROPERTY WITHIN THE TOWNSHIP; PROVIDING FOR THE REMOVAL THEREOF ON PUBLIC OR PRIVATE GROUNDS AFTER NOTICE TO THE OWNERS TO DO SO, AND IN DEFAULT THEREOF, TO COLLECT THE COSTS OF SUCH REMOVAL BY THE BOROUGH; AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the Borough of West Middletown, Washington County, Pennsylvania, deem it to be in the best interest and general welfare of the citizens and the residents of this Borough to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to others in the legitimate enjoyment of their rights of person or property; and

WHEREAS, the Borough Code, Title 53, authorizes boroughs to prohibit nuisances, to remove same and to impose penalties therefore;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, AND IT IS ENACTED AND ORDAINED by the Borough of West Middletown, Washington County, Pennsylvania, as follows:

SECTION 1: Definition: For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and word "shall" is always mandatory and not merely directory.

1. "Borough" is the Borough of West Middletown",

Washington County, Pennsylvania.

2. "Council" is the Council of West Middletown Borough, Washington County, Pennsylvania.

3. "Owner" is a person owning, leasing, occupying or having charge of any premises within the Borough.

4. "Person" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

5. "Vegetation" is any grass, weed or vegetation whatsoever, which is not edible or planted for some useful, legal or ornamental purpose.

6. "Nuisance" is the unreasonable, unwarrantable, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of person or property.

SECTION 2: Nuisance Declared Illegal: N u i s a n c e s , including, but not limited to the following, are hereby declared to illegal: Permitting the growth of vegetation beyond the following restrictions:

1. Permitting the growth of any grass, weeds, noxious weeds, or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, in excess of a height of twelve (12) inches.

2. Permitting any such grass, weeds, or any vegetation to throw off any unpleasant or noxious odor.

3. Permitting such growth to conceal any rubbish, garbage, trash or any other filthy deposit.

4. Permitting such vegetation to conceal any dangerous or hazardous condition.

5. Permitting such vegetation to conceal or obscure either fully or in part; any traffic way, right of way, traffic control device or sign, or otherwise impairing visibility as pertains to motor or pedestrian safety.

6. Permitting any plant growth whether or not edible, useful, or ornamental that is in excess of a height of twelve (12") inches that blocks or otherwise obstructs vision as pertains to operators of motor vehicles and/or vehicles on roadways.

EXCEPTION: The provisions of this section pertaining to the permissible height of vegetation within the Borough shall not apply to any property which is utilized predominantly for agricultural purposes; said exceptions shall not apply to any restrictions contained herein.

SECTION 3. Written Notice to Violators Required: Whenever a condition constituting a nuisance is permitted or maintained, the Council of the Borough shall cause written notice to be served upon the owner in any one of the following manners:

1. By making personal delivery of the notice to the owner;

2. By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides,

but if no adult member of the family is found, then to an adult person in charge of such residence;

3. By fixing a copy of the notice to the door at the entrance of the premises in violation;

4. By mailing a copy of the notice to the last known address of the owner by certified mail.

Such notice shall set forth in what respect such condition constitutes a nuisance, whether removal is necessary and required by the Township, or whether the situation can be corrected by repairs, alterations or by fencing or boarding, or in some way confining and limiting the nuisance. Such notice shall require the owner to commence action in accordance with the terms thereof within twenty (20) days and thereafter, to comply fully with its terms with reasonable dispatch, with all material to be supplied and work to be done at the owner's expense; provided, however, if any of the provisions of Sections 2.3, 2.4, 2.5, and 2.6 are violated, and if the circumstances require immediate corrective measures, such notice shall require the owner to immediately comply with the terms thereof.

SECTION 4. Penalty for Violation: If the owner, after receiving due notice, refuses to comply with the terms thereof:

1. He shall be guilty of a violation of this Ordinance, and shall, upon conviction thereof, pay a fine of not less than One Hundred (\$100.00) Dollars, and not more than Five Hundred (\$500.00) Dollars and the costs of prosecution, and in default of the payment of such fine and costs of prosecution, to undergo imprisonment of

not more than ten (10) days, provided, further, that each day's continuance of a violation shall constitute a separate offense.

2. The Council of the Borough may direct the removal, repair, or alterations, as the case may be, to be done by the Borough and to certify the costs thereof to the Borough Solicitor, the cost of such removal, repairs or alterations shall be a lien upon such premises from the time of such removal, cutting, repairs and alterations which date shall be determined by the certificate of the person doing such work, and filed with the Borough Secretary.

3. The Borough, by means of complaint in equity, may compel the owner of the premises to comply with the terms of any notice of violations, or seek any such other relief as any such court of competent jurisdiction is empowered to afford.

4. The above penalties, sanctions and/or remedies are not mutually exclusive and therein any or all of the same may be imposed.

SECTION 5. Severability: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 6. Effective Date: This Ordinance shall become effective five (5) days after the adoption hereof.

ENACTED AND ORDAINED into law by the Borough of West

95-02

Middletown, Washington County, Pennsylvania this 22 day of May, 1995.

ATTEST:

Jan Luttis
Borough Secretary

BOROUGH OF WEST MIDDLETOWN:

Jack Kaye

John Paul Mesinger

Thomas J. McLaughlin Mayor