

Introduced by: John Ness
Introduced on: August 10, 2009

ORDINANCE NO. 09- 03

AN ACT TO AMEND THE CODE OF ORDINANCES OF THE TOWN OF TOWNSEND CONCERNING OVERGROWN WEEDS AND GRASS.

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF TOWNSEND (a majority of the members elected thereto concurring therein):

Section 1. Amend Section 26-46 of the Code of Ordinances, Town of Townsend, Delaware by striking same in its entirety and by substituting in lieu thereof the following:

"26-46. Height of Vegetation; Notice; Violation, Penalties

(a) *Height of Vegetation.* No person, group of persons, firm, association, or corporation shall permit any grass, weeds or other form of vegetation whatsoever, other than edible vegetables, trees, or flowers, to grow higher than ten inches (10") from the ground on any lot or parcel of ground within the corporate limits of the Town of Townsend, whether or not any improvements have been erected on said lot, or parcel of ground.

(b) *Accumulated Rubbish/Garbage/Trash.* No person, group of persons, firm, association, or corporation shall permit the accumulation of rubbish, garbage or trash on any lot or parcel of ground within the corporate limits of the Town of Townsend, whether or not any improvements have been erected on said lot, or parcel of ground.

(c) *Right of Entry.* In furtherance of the policy and purposes of this Section, the Town of Townsend may make or cause to be made any investigation or study which is, in necessary for the purpose of enforcing this Section including, but not limited to authorizing its agents or employees to enter upon the property in question to remove the violation at the owner's expense.

(d) *Notice.* The owner of the property that the property that is noncompliant with the standards set forth herein shall receive two forms of written notice of violation, being:

1. Posted notice of violation upon the property; and
2. Certified mail notification of violation to property owner(s) of record.
3. The posted notice of violation and the certified mail notice referenced in the subparagraphs 1 and 2 above shall provide the following:
 - a. that the property owner must bring the property into compliance within five (5) calendar days of the date the property was posted; and
 - b. that failure to timely remove the violation may cause the Town of Townsend to authorize its agents to enter the noncompliant property for the purpose of removing the violation at the owner's expense.
4. Each day that any violation is continued after five (5) days from the date of posting the offense shall be deemed a separate offense and violation of this ordinance.

(e) *Violation.* If the owner of the property fails or refuses to correct the violation within five (5) days of the posted notice of violation, such person(s) shall be guilty of the offense of nuisance and in violation of this Section. Each day that any violation is continued after five (5) days from the date of posting the offense shall be deemed a separate offense and violation of this ordinance.

(f) *Exception.* A property owner shall not be in violation of the prohibitions of this section for portions of his or her property upon which:

1. A purposefully planted vegetable or flower garden is maintained;

OR

2. A natural area is maintained in compliance with Town of Townsend's community habitat project.

(g) *Penalties.* For each violation, the Town of Townsend shall charge the property owner(s) in violation \$50.00 per hour to remove the violation including a two (2) hour minimum for grass cutting and any incidental fees such as disposal fees and expenses that are incurred by the Town."

Section 2. Amend Section 26-47 of the Code of Ordinances, Town of Townsend, Delaware by striking same in its entirety.

Section 3. Amend Section 26-48 of the Code of Ordinances, Town of Townsend, Delaware by striking the phrase "ten days" as it appears in the first sentence thereof and by substituting in lieu thereof the phrase "five (5) days".

Section 4. Amend Section 26-49 of the Code of Ordinances, Town of Townsend, Delaware by striking the phrase "ten days" as it appears in the last line thereof and by substituting in lieu thereof the phrase "five (5) days".

Section 5. The Town of Townsend shall develop a policy for recognizing, identifying, and certifying natural areas and/or wildlife habitat as exceptions to this Ordinance.

Section 6. If any provision of this Act, or its application to any person or circumstance is held invalid, the remainder of this Act, or the application of the provision to other persons or circumstances shall remain unaffected.

Section 7. This Act shall become effective immediately upon its passage into law.

SYNOPSIS

This Act revises the current prohibition against allowing one's property to become overgrown with grass, weeds or to accumulate rubbish, garbage and trash. For purposes of this section, overgrown vegetation shall be grass or weeds in excess of ten inches in height. Failure to correct a violation after a five-day notice period shall constitute the offense of nuisance. The Town may elect to enter the premises to bring it into compliance at the owner's expense.

Under the new ordinance, the Town may grant exceptions to allow for the maintenance of natural areas and areas that may serve as wildlife habitat.

Provisions relating to accumulation of rubbish are simply moved to appear in the reorganized section.

First & Second Reading: September 2, 2009

Public Hearing: September 2, 2009

Third & Final Reading: October 7,

Signed by: _____

Mayor of Townsend