

CHAPTER 10
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Part 1

Weeds and Other Vegetation

§101. Weeds and Other Vegetation Constitute Nuisance Under Certain Conditions.

It shall be unlawful for any person, firm, association or corporation, or the officers thereof, owning, leasing, occupying or having any interest in any real estate, property or land within the Borough of Pottstown, to permit any grass or weeds or any vegetation whatever not edible or planted or cultivated for some useful or ornamental purpose, to grow or remain upon such premises so as to exceed a height of six inches, or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit or to create or produce pollen. Any such grass, weeds or other vegetation growing or remaining upon any such premises in violation of this §101 is hereby declared to be a nuisance and detrimental to the health, safety, comfort and convenience of the inhabitants of the Borough.

(Ord. 6/8/1942, §1; as amended by Ord. 1014, 5/14/1964, §1)

§102. Removal of Weeds and Other Vegetation Constituting Nuisance.

Where any such grass, weeds or other vegetation is permitted to grow or remain upon any property contrary to the provisions of this Part, the Borough Secretary shall cause a notice to be served upon the owner, lessee or lessor, occupant or agent of the owner, lessee or lessor or upon any person having any interest therein, requiring the removal of the same within three days, in default of which such grass, weeds or other vegetation shall be cut and/or removed by or under the direction of the Health Officer or such other person as may be designated by Council, and the cost thereof, together with a penalty of 10%, as provided by law in the case of nuisances, shall be collected in the manner provided by law for the collection of municipal claims, either by filing a lien or by action of assumpsit, or in any other authorized manner; provided that, where the owner, lessor, lessee, occupant or agent for the owner of such land or real estate does not reside in the Borough or where their presence cannot be determined, the aforesaid notice shall be posted upon the offending premises in lieu of service upon such owner.

(Ord. 6/8/1942, §2; as amended by Ord. 6/8/1953, §1; by Ord. 1014, 5/19/1964, §1; and by Ord. 1913, 2/18/2001, §12)

§103. Penalty for Violation.

Any person, firm, association or corporation, or the officers thereof, violating any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$25 or more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than five days; provided that each refusal or neglect to comply with the terms or provisions of this Part shall constitute a

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separate offense; and provided further that, for the purpose of enforcing the penal provisions of this Part, it shall not be necessary to first notify the offender in order that the presence of such weeds may constitute an offense.

(Ord. 6/8/1942, §3; as amended by Ord. 6/8/1953, §1; by Ord. 1014, 5/19/1964, §1; and by Ord. 1735, 4/12/1993)

Part 2

Recovery of Costs and Expenses

A. Recovery of Costs of Police Services.

§201. Purpose and Intent.

Pottstown Borough Council finds and determines:

- A. That certain private properties require a disproportionate amount of police services with many calls requiring response to maintain order and public peace and to stop public disturbances so that there is less police personnel and resources available for other locations, emergencies and duties in the Borough and extraordinary police service at such properties puts a disproportionate and unfair burden upon the citizens and taxpayers of the Borough.
- B. That owners and/or rental agents in charge of such private properties derive a benefit from such police service.
- C. That the owners and/or rental agents in charge of such private properties have a responsibility to manage their properties to minimize required police service to maintain order and public peace and to stop public disturbances and to minimize the burden upon citizens and taxpayers of the Borough and to promote the health, safety and welfare of the public in general.
- D. That the owners and/or rental agents in charge of such private properties can minimize required police service to maintain order and public peace and to stop public disturbances by diligent and strict management and regulation of their properties.
- E. That assessment of costs as provided in this Part is reasonable and will have a deterrent effect and encourage more responsible management of such properties.

It is not the intent of this Part to discourage or suppress requests for police service, but rather to encourage and stimulate diligent and strict management and regulation of private property by owners and/or rental agents in charge.

(Ord. 1778, 10/10/1994)

§202. Definitions.

OWNER – person or persons or corporation or other entity comprising record owner or owners of any land or building.

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POLICE SERVICE COSTS – an amount fixed by Borough Council to cover estimated compensation of officers for amount of time normally spent in responding to a call or otherwise maintaining order and public peace and stopping disturbances, appropriate administrative costs allocable thereto, and medical treatment to injured officers and the cost of repairing damaged Borough equipment or property. This amount shall be fixed from time to time and shall be based upon an average cost for a typical police response.

PRIVATE PROPERTY – any land or building, including single and multifamily dwellings and commercial and industrial buildings not owned by a public entity.

PUBLIC DISTURBANCES – any party, gathering, event or disturbance involving disorderly conduct as described in Chapter 6, Part 3, of the Pottstown Borough Code.

PUBLIC ENTITY – any Federal, State or local government or school district or agency or authority created or organized thereby.

(Ord. 1778, 10/10/1994)

§203. Owners and/or Rental Agents Required to Pay Certain Police Service Costs.

Every owner of and/or rental agent with responsibility to manage private property within the Borough is required to pay police service costs to maintain order and public peace and to stop public disturbances at such private property for each response by the police in excess of one response per thirty-day period, in an amount fixed by resolution of Borough Council; provided, however, that police service in connection with crimes against residents and/or property by persons not residing or invited guests or otherwise lawful occupants of the private property shall not be considered responses for purposes of this Part; and provided, further, that police service in connection with spousal abuse or abuse of children by parents or in connection with crimes classified as misdemeanors or felonies under the Pennsylvania Crimes Code shall not be considered responses for purposes of this Part.

(Ord. 1778, 10/10/1994)

§204. Notice to Owner and/or Rental Agents.

The Chief of Police or other duly authorized agent of the Borough shall notify the owner of and/or rental agent with responsibility to manage private property that a response has been made to such property to maintain order or public peace or to stop a public disturbance. Such notice shall be given by regular mail to the last known address of such owner and/or rental agent; provided, however, that an owner and/or rental agent with responsibility to manage private property shall be required to pay police service costs in accordance with §203 of this Part whether or not such notice has been given.

(Ord. 1778, 10/10/1994)

§205. Billing.

Police service costs due in accordance with §203 hereof shall be billed to the owner and/or rental agent with responsibility to manage private property by the Finance Director or his duly authorized agent and shall be due and payable within 30 days of such billing.

(Ord. 1778, 10/10/1994)

§206. Failure to Pay.

Unpaid police service costs may be collected by civil action by the Borough against the owner and/or rental agent with responsibility to manage private property and/or may be imposed or assessed against such private property as a municipal claim under the Act of May 16, 1923, P.L. 207, as amended (53 P.S. §7101). In either event, a penalty of 10% and interest at the rate of 10% per annum shall be added and collected as provided by law.

(Ord. 1778, 10/10/1994)

B. Reimbursement for Expenses and Services in Connection with Hazardous Wastes.

§211. Reimbursement for Expenses and Services in Connection with Release or Threatened Release of Fuel Products or Hazardous Materials.

The owner, manager or person in control of fuel products or hazardous materials shall reimburse the Borough, its fire companies or other emergency services organizations for expenses and services in connection with the release or threatened release of such products or materials in the Borough. Such expenses shall include all costs and fees for labor, materials and/or equipment used to monitor, extinguish, confine, neutralize, contain, clean, remove and dispose of any fuel products or hazardous materials that are or may be involved in a fire or release or threatened release into the air, ground or water, and shall include protective actions, including evacuation to protect the public health, safety and welfare. Services shall include services performed by Borough departments or employees or any public or private organization to mitigate a hazard or potential hazard or to provide protective action.

(Ord. 1788, 12/12/1994, §1)

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§212. Administration.

Reimbursement for such expenses and services shall be paid to the Borough. The Borough, in turn, shall distribute such reimbursement to itself and other organizations as appropriate.

(Ord. 1788, 12/12/1994, §2)

§213. Enforcement.

The Borough may enforce the provisions of this Part by civil action in a court of competent jurisdiction. Reimbursement shall include reasonable attorney fees.

(Ord. 1788, 12/12/1994, §3)

§214. Unlawful Actual or Threatened Release of Hazardous Materials.

It shall be unlawful to intentionally or negligently cause or permit the actual or threatened release of fuel products or hazardous materials in the Borough of Pottstown.

(Ord. 1788, 12/12/1994, §4)

§215. Penalties.

Any person, firm or corporation who shall violate any provision of this Part shall be sentenced to pay a fine of not more than \$600 and, in default of payment, to imprisonment for a term not to exceed 30 days.

(Ord. 1788, 12/12/1994, §5)

Part 3

Graffiti

§301. Purpose and Intent.

Pottstown Borough Council finds and determines that graffiti visible from streets, sidewalks or other public property is a visual blight and aesthetically unacceptable; that graffiti is inconsistent with the property maintenance goals and aesthetic standards of the community; that graffiti must be removed as soon as possible to avoid detrimental impact on public health, safety and welfare; that persons causing graffiti should be penalized; and that the owners and/or persons in charge of private property have some responsibility to remove graffiti therefrom.

(Ord. 1802, 5/8/1995, §301)

§302. Definitions.

GRAFFITI – one or more letters, symbols or other markings painted, drawn or otherwise applied to a wall, post, column or other building or structure, or to a tree or other exterior surface, publicly or privately owned and visible from any street, sidewalk or other public property. The term does not include signs authorized by Chapter 27 of the Code of Ordinances or markings authorized by the owner of the surface where applied for a useful or decorative purpose.

OWNER – person or persons or corporation or other entity comprising record owner or owners of any land or building.

REMOVAL – cleaned, scraped off, covered with paint or otherwise not visible from a public street or sidewalk or other public property.

(Ord. 1802, 5/8/1995, §302)

§303. Prohibition of Graffiti.

No person shall paint, draw or otherwise apply graffiti to any exterior surface visible from a public street or sidewalk or other public property.

(Ord. 1802, 5/8/1995, §303)

§304. Declaration; Notice.

Graffiti is declared to be a public nuisance. When the existence of graffiti on any lot or parcel of real estate situate within the Borough shall come to the attention of a Code

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Enforcement Officer, he shall give written notice to the owner of record and/or person in charge of such real estate, identifying the graffiti and directing its removal within 48 hours of the date of such notice.

(Ord. 1802, 5/8/1995, §304; as amended by Ord. 2041, 7/9/2007)

§305. Removal by Borough; Expenses and Liens.

If the owner fails to remove the graffiti within 48 hours as required, the Borough is authorized to do so and to assess the costs thereof (together with a penalty of 10% as provided by law in the case of nuisances), to be collected in the manner provided by law for the collection of municipal claims, either by the filing of a lien or a civil action, or in any other authorized manner, including all costs of collection; provided, however, that the Borough shall not enter upon private property to remove the graffiti without the written consent of the owner and/or the person in charge of the property in form acceptable to the Borough.

(Ord. 1802, 5/8/1995, §305; as amended by Ord. 2041, 7/9/2007)

§306. Penalties.

Any person, firm or corporation who shall violate any provision of this Part shall be sentenced to pay a fine of not more than \$600 and, in default of payment, to imprisonment for a term not to exceed 30 days. In addition, a person causing graffiti shall be required to remove the graffiti and/or reimburse the property owner and/or the Borough for the cost of such removal; provided, however, that these penalties do not apply to the owner and/or person in charge of real estate on which the graffiti has been placed unless such person refuses to give written consent for removal by the Borough in form acceptable to Borough.

(Ord. 1802, 5/8/1995, §305)

Part 4

Shopping Carts; Reclamation and Disposal

§401. Legislative Intent.

Over the past three years, the Borough of Pottstown has collected over 125 abandoned shopping carts from Borough streets, sidewalks, alleys and other public areas. The Borough has stored the shopping carts, and despite notifying the owners, the owners have failed to reclaim their property. Accordingly, the Borough, by default, has been left with the collection, storage and ultimate disposal of the shopping carts resulting in the use of Borough manpower and the expenditure of the Borough funds. Borough Council, therefore, makes the following findings:

- A. Abandoned shopping carts that are left unattended on Borough streets, sidewalks, alleys and other public places cause a threat to public health, safety and welfare for pedestrians and motorists.
- B. Abandoned shopping carts impact the aesthetics of the Borough streets, sidewalks, alleys and other public areas causing other trash and debris to accumulate in these areas.
- C. The collection, removal and storage of the shopping carts has required Borough workers to take additional time and resources to address this problem, taking them away from their primary duties.
- D. The Borough has spent funds to alleviate this problem and additional funds to dispose of the abandoned shopping carts.

(Ord. 1971, 12/8/2003, §1)

§402. Purpose.

The purpose of this Part is to create a procedure for the collection, storage, reclamation and/or ultimate disposal of shopping carts left abandoned or unclaimed when removed from the owner's property, but otherwise within the Borough, including the Borough streets, alleys, sidewalks and other public areas.

(Ord. 1971, 12/8/2003, §2)

§403. Definitions.

ABANDONED SHOPPING CART – a shopping cart found by the Borough Code Enforcement Office off-site of the premises housing the entity or business named on the shopping cart.

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DISPOSAL FEE – the fee assessed or charged to the property owner associated with the Borough's disposal of the abandoned shopping cart.

RECLAMATION FEE – the fee assessed or charged against the property owner by the Borough associated with the Borough's storage and reclamation of the abandoned shopping cart.

WRITTEN NOTIFICATION – notice, in writing, by first class mail, to the entity or business whose name appears on the abandoned shopping cart.

(Ord. 1971, 12/8/2003, §3)

§404. Procedures.

The following procedures are hereby established for the collection, storage, reclamation and disposal of all abandoned shopping carts:

- A. Any abandoned shopping cart retrieved or otherwise obtained by the Borough shall be collected and taken to an appropriate Borough controlled storage area for temporary storage.
- B. The Code Enforcement Office shall thereafter ascertain the owner of the shopping cart, if possible, and provide the owner with written notification of the location of the shopping cart. The owner shall have 30 days to reclaim the shopping cart. In the event the owner reclaims the shopping cart, a reclamation fee shall be paid to the Borough prior to returning the cart to the owner from the Borough's storage area.
- C. In the event the owner fails to reclaim the shopping cart within 30 days, the Borough may consider the cart abandoned by the owner and dispose of the shopping cart. Thereafter, the Borough shall provide written notification to the owner with a bill representing the disposal fee. The owner shall have 30 days in which to pay the disposal fee to the Borough. The failure of the owner of the shopping cart to reclaim the shopping cart or pay the disposal fee shall be a violation of this Part.

(Ord. 1971, 12/8/2003, §4)

§405. Fees.

For purposes of this Part, the initial disposal fee shall be set at \$100 per cart. The reclamation fee shall consist of two components, with the first being \$50 per cart for retrieval and \$2 per day for storage. Any future modifications of the fees established in this Part shall be made by Borough Council from time to time by resolution.

(Ord. 1971, 12/8/2003, §5)

§406. Enforcement; Penalties for Violation.

Any person found guilty for violating any provisions of this Part shall pay a fine of not more than \$600 and further be responsible for payment of any fee imposed under this Part, plus a 10% penalty and interest at 6% from the date the fee originally became due.

(Ord. 1971, 12/8/2003, §6)

§407. Rules and Regulations.

The Pottstown Borough Code Enforcement Office is hereby empowered to make any additional rules and regulations necessary to effectuate the purpose and intent of this Part so long as same are not inconsistent with the provisions herein.

(Ord. 1971, 12/8/2003, §7)