

PROCEDURE FOR ABATEMENT, CONTROL OR REMOVAL
OF
VEGETATION, GARBAGE, REFUSE AND OTHER DEBRIS
FROM LAND IN THE UNINCORPORATED AREA
OF
WASHINGTON TOWNSHIP, MONTGOMERY COUNTY, OHIO

WHEREAS, Section 505.87 of the Ohio Revised Code enables a board of township trustees to abate, control or remove vegetation, garbage, refuse and other debris from land in the unincorporated area of Washington Township; and,

WHEREAS, Section 505.87 provides the procedure to be followed by a township to abate, control or remove such vegetation, garbage, refuse and other debris from land in the unincorporated area of a township; and,

WHEREAS, Section 505.032 of the Ohio Revised Code permits a board of trustees which has appointed a township administrator to assign to such administrator any office, position or duties under its control; and,

WHEREAS, the Board of Trustees of Washington Township has assigned its Administrator the task of determining whether the owner's maintenance of vegetation, garbage, refuse and other debris constitutes a nuisance;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of Washington Township that the following policy be adopted:

A. Policy Statement - It is the policy of the Board of Trustees of Washington Township to encourage property owners to voluntarily control, eliminate or remove any vegetation, garbage, refuse or other debris which is or may become a nuisance. When a property owner fails to do so, the Township may take appropriate action to abate any nuisance which exist.

B. Definitions

1. Garbage shall mean animal and vegetable waste.
2. Vegetation shall mean any grass or weeds exceeding a height of eight (8) inches.

3. Refuse shall mean anything discarded or rejected, and shall include, but not be limited to, combustible and non-combustible waste material.
4. Debris shall mean any item or piece of an item which is dismantled, discarded, nonfunctional, broken, abandoned, dumped, stockpiled, or damaged which is not blocked from view. (Items covered by tarps or similar type coverings shall not be considered as being blocked from view.) This definition shall include, but be not limited to, motor vehicles or parts thereof, construction material, cardboard, packaging material, pallets, landscaping materials including mulch or dirt, or household items.
5. Nuisance shall be a condition which exists when garbage, refuse, debris or vegetation on property within the unincorporated area of the Township causes damage, annoyance, a health hazard or obstructs or interferes with one's reasonable enjoyment or use of property.
6. Enforcement officer shall be the person designated as such by the Township Administrator.

C. Procedure - Upon information that a nuisance may exist, the enforcement officer shall cause an inspection to be made. If an enforcement officer determines that a nuisance condition exists, the enforcement officer shall prepare a report to the Township Administrator who shall determine whether, based upon the report of the enforcement officer, such vegetation, garbage, refuse and other debris constitutes a nuisance. If the Township Administrator determines that a nuisance exists, the following procedure shall be followed:

1. The Enforcement officer shall notify the owners of the land and any holders of liens of record upon the land that:
 - a. the owner is ordered to abate, control or remove the vegetation, garbage, refuse or other debris, which has been determined by the Administrator to be a nuisance.
 - b. If such vegetation, garbage, refuse or debris is not abated, controlled or removed, or if provision for its abatement, control or removal

is not made within seven (7) calendar days, (or within four (4) calendar days if the Administrator determines within twelve (12) consecutive months after a prior nuisance determination that the same owner's maintenance of vegetation, garbage, refuse or other debris on the same land in the township constitutes a nuisance) the Township will provide for its abatement, control or removal and any expenses incurred by the Township in performing that task will be entered upon the tax duplicate and will be a lien upon the land from the date of entry.

2. The notice to be given by Section (C)(1) shall be made as follows:

a. The Enforcement officer shall send the notice to the owner of the land by certified mail if the owner is a resident of the Township or is a non-resident whose address is known, and by certified mail to holders of liens of record. In the alternative, if the owner is a resident of the Township or is a nonresident whose address is known, the Enforcement officer may give notice to the owner by causing to post the notice on the principal structure on the land and to photograph that posted notice with a camera capable of recording the date of the photograph on it. If this alternative method is used, the holders of liens of records shall still receive notice by certified mail.

b. If the owner's address is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once in a newspaper of general circulation in the Township.

3. If the Administrator determines within twelve (12) consecutive months after a prior nuisance determination that the same owner's maintenance of vegetation, garbage, refuse or other debris on the same land in the Township constitutes a nuisance, notice to the owners of the land and any holders of

liens of record shall be given as follows:

- a. Written notice shall be sent by first class mail to the owners of the land and to any holders of liens of record. Failure of delivery of the notice shall not invalidate any action taken to abate, control, or remove the nuisance. Alternatively, notice may be given to the owner by posting the notice on the principal structure on the land and to photograph that posted notice with a camera capable of recording the date of the photograph on it.
 - b. If the owner's address is unknown and cannot reasonably be obtained, it shall be sufficient to post the notice on the Washington Township's internet website for four (4) consecutive days.
4. The property owner(s) or lienholder(s) of record have seven (7) calendar days from the date notice is received, posted or published or four (4) calendar days after notice is given in accordance with Section 3 of this procedure to either abate, control or remove the vegetation, garbage, refuse or debris; enter into an agreement with the Township to abate, control or remove the vegetation, garbage, refuse or debris or to file an appeal as provided for in paragraph D.
 5. If within the time required, the vegetation, garbage, refuse or other debris has not been abated, controlled or removed or the owner or lienholder has not entered into an agreement with the Township to provide for the abatement, control or removal of said items, or an appeal has not been filed, the Administrator shall report said findings to the Board of Township Trustees which shall then follow the procedures set forth in Section 505.87 of the Ohio Revised Code to abate said nuisance.
 6. Upon the abatement, control or removal of the vegetation, garbage, refuse or other debris by the Township, the Enforcement Officer shall prepare and submit a statement to the property owner(s) and lienholder(s) of record. The statement shall include an itemized listing of all expenses incurred, along with the following information:

- a. That the property owner(s) has thirty (30) days from receipt of the statement to pay all expenses contained therein.
 - b. That if the property owner(s) fails to make full payment within thirty (30) days of receipt of the statement, the Township shall have such expenses placed upon the tax duplicate for that property as provided for, and in the manner prescribed by Section 505.87(F) of the Ohio Revised Code.
7. If the property owner(s) fails to make full payment within thirty (30) days of receipt of the statement, the board of township trustees shall make a written report to the county auditor of its actions. The report shall include a proper description of the premises, a statement of all expenses incurred, including the board's charges for its services, notification, fees or interest paid or borrowed to pay for the abatement and the amount paid for labor, material and equipment. It shall instruct the county auditor to have such expenses placed upon the tax duplicate for that property as provided for, and in the manner prescribed by Section 505.87(F) of the Ohio Revised Code.

D. Appeal- An appeal to the board of township trustees from the decision of the Administrator that a nuisance exists on a property within the Township may be requested by the property owner, any lienholder of record, or his/her or its agent.

1. Appeal Procedure - The appeal shall be made in writing and shall:
 - a. Be made within ten (10) business days of receipt, posting or publication of the notice required by Section (C) of this procedure; and,
 - b. State the reason(s) as to why the decision should be reversed or modified; and,
 - c. State the address of the property which is the subject of the appeal.

2. Action by the Board of Township Trustees- Upon receipt of an appeal, the board of township trustees shall set a hearing within thirty (30) days. The appellant shall be entitled to request only one continuance which shall not be for more than thirty (30) days without the concurrence of the board of trustees. At the hearing, the appellant may be represented by counsel and present any evidence relevant to the issue under consideration. Upon hearing the appeal, the board of trustees shall either:
 - a. Affirm the decision;
 - b. Modify the decision; or
 - c. Reverse the decision.

If the board of trustees either affirms or modifies the initial decision, the board of trustees shall set a new date for the abatement, control or removal of the vegetation, garbage, refuse or other debris. When modifying the initial decision, the board of trustees shall specify the changes to the original notice.

3. Failure to Appeal - Failure of the property owner(s), lienholder(s) of record or agent to appeal to the board of trustees within ten (10) business days of receipt, posting or publication of the notice required by Section (C) of this procedure shall be prima facie evidence that a nuisance does exist as stated in the notice, and shall preclude any further appeals of the notice.