

**TOWNSHIP OF UPPER BERN
COUNTY OF BERKS
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO.: 106 of 2010

**AN ORDINANCE OF UPPER BERN TOWNSHIP, BERKS COUNTY,
PENNSYLVANIA, ESTABLISHING CERTAIN RULES, CRITERIA, STANDARDS,
SPECIFICATIONS, INSPECTIONS, PENALTIES, FINES, AND OTHER
REGULATIONS PERTAINING TO BRUSH, GRASS, NOXIOUS WEEDS AND
INVASIVE PLANTS WITHIN UPPER BERN TOWNSHIP. THIS ORDINANCE SHALL
BE HEREINAFTER REFERRED TO AS THE UPPER BERN TOWNSHIP BRUSH,
GRASS, NOXIOUS WEEDS AND INVASIVE PLANTS ORDINANCE.**

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Upper Bern Township, Berks County, Pennsylvania, the following provisions are hereby established as the Upper Bern Township Brush, Grass, Noxious Weeds and Invasive Plants Ordinance:

Section 1: Statement of Intent.

- (A) Upper Bern Township recognizes that the growth of a variety of vegetation within the Township promotes diversity and enriches the quality of life for all residents. However, reasonable regulation of the growth of such vegetation, noxious weeds, and invasive plants will protect the public health, safety, and general welfare of the Township, while protecting the property rights of all landowners and residents within the Township.
- (B) It is the intent of this Ordinance to encourage the use of wildflower and other native plants, while at the same time ensuring that such vegetative growth does not become a nuisance or threat to the health, safety and/or general welfare of the landowners and residents within Upper Bern Township.

Section 2: Definitions.

For purposes of this Ordinance, the following terms are defined as follows.

- (A) Landowner or Owner: The person, firm, partnership, corporation or other legal entity holding legal title to a lot or other real property, as the same is recorded in the office of the Recorder of Deeds of Berks County, Pennsylvania.
- (B) Lot: A lot, tract or parcel of land located within Upper Bern Township in any zoning district that abuts one or more occupied dwelling units, regardless of whether the lot is vacant or improved with a building or structure.
- (C) Wildflower Meadow: A naturally occurring or man-made vegetated landscape dominated by wildflowers which are allowed to go to seed and which is cut or mowed in accordance with the provisions of this Ordinance.

Section 3: Maintenance and Mowing of a Lot.

- (A) Within the Shartlesville Village (SV) and Medium Density Residential (MDR) Zoning Districts, the owner of each lot shall mow or cut the lot as often as it is necessary to keep all grass, weeds and similar vegetation growing to a maximum height of eight (8) inches.
- (B) Within the Agricultural Preservation (AP), Blue Mountain Preservation (BMP), Resort Commercial (RC), Highway Commercial (HC), General Industrial (GI) and Agricultural Industrial (AI) Zoning Districts, the owner of each lot shall mow or cut the lot as often as it is necessary to keep all grass, weeds and similar vegetation growing to a maximum height of twelve (12) inches.

Section 4: Removal of Weeds.

- (A) The following plants are determined to be noxious weeds and shall be removed by the owner from any land area as often as necessary to restrict and or prohibit their growth: canada thistle, bull or spear thistle, musk or nodding thistle, multiflora rose, johnson grass, mile-a-minute, kudzu vine, purple loose strife, marijuana, goatsrue, shattercane, jimsonweed, giant hogweed, and/or other noxious weeds as recognized by the Pennsylvania Department of Agriculture.
- (B) The following plants are determined to be invasive plants and shall be removed by the owner from any land area as often as necessary to restrict and or prohibit their growth: garlic mustard, giant hogweed, Japanese stilt grass, common reed (Phragmites), Japanese knotweed, autumn olive shrub, amur, morrow's, standish, Japanese and tartarian honeysuckle, Norway maple (tree), tree-of-heaven, oriental bittersweet, Japanese baberry, European barberry and/or other invasive plants recognized by the Pennsylvania Department of Agriculture.
- (C) In addition to the noxious weeds and invasive plant specified by this Ordinance, the following plants, vines, weed, and other species shall be maintained by the owner to restrict their growth and prohibit them from going to seed: ragweed, poison ivy, poison oak and/or vegetative materials that may cause personal health and safety issues..

Section 5: Exceptions.

The provisions specified under this Ordinance shall not apply to the following:

- (A) Trees, whether coniferous or deciduous, except for those trees listed under Section 4 of this Ordinance;
- (B) Shrubs, except for those shrubs listed under Section 4 of this Ordinance;
- (C) Flower beds or gardens;

- (D) Vegetables and vegetable gardens;
- (E) Wildflower meadows;
- (F) Wetlands and wetland buffers, subject to the provisions specified by Upper Bern Township and the Commonwealth of Pennsylvania;
- (G) Woodlands and forested areas;
- (H) Areas within 50 feet of a perennial stream;
- (I) Areas within 20 feet of an intermittent stream or pond;
- (J) Land actively cultivated in crop production or engaged in farming or animal husbandry;
- (K) Riparian Buffers, provided that they are designed and maintained in accordance with the provisions specified by Upper Bern Township.
- (L) Floodplains, provided that they are maintained in accordance with the provisions of Upper Bern Township and the Federal Emergency Management Agency.

Section 6: Excessive Vegetation and Public Nuisances.

Any grass, plant, weed, vine and/or other prohibited vegetation permitted to grow upon any property in Upper Bern Township that is considered in violation of this Ordinance shall be hereby declared to be a public nuisance, which is detrimental to the health, safety and general welfare of the residents of Upper Bern Township.

Section 7: Traffic Obstructions.

- (A) Clear sight triangles shall be provided and maintained at all street intersections. Within such clear sight triangles, nothing shall be erected, placed, planted or allowed to grow that will impede the vision or line of sight between a height of two and one-half (2-1/2) feet and ten (10) feet above the center line grades of the intersecting streets. All such clear sight triangle shall be established as follows
 - (1) For intersections involving a minor street, the dimension of the clear sight triangle shall be established for a distance of seventy-five (75) feet, as measured from the middle of the intersection or where the centerlines of the intersecting streets cross.
 - (2) For intersections involving a collector street, the dimension of the clear sight triangle shall be established for a distance of one hundred (100) feet, as measured from the middle of the intersection or where the centerlines of the intersecting streets cross.

- (3) For intersections involving an arterial street, the dimension of the clear sight triangle shall be established for a distance of one hundred and fifty (150) feet, as measured from the middle of the intersection or where the centerlines of the intersecting streets cross.
- (4) Street signs, traffic lights, traffic signs, utility poles and mail boxes shall be exempt of the provisions for clear sight triangles.
- (B) A determination of whether any trees, brush, grass, weeds, plants, shrub, vines and/or other vegetation that constitutes a traffic hazard or violates the provisions of this section of the Ordinance shall be made on the basis of an inspection by the Upper Bern Township Roadmaster and/or Zoning Officer.
- (C) Upon notification to the owner or occupant of the premises that any trees, brush, grass, weeds, plants, shrubs, vines and/or other vegetation is considered to be a traffic hazard, or there is a visual obstruction, the owner of the property shall cut, mow or remove it from the property so it does not continue to create a traffic hazard or visual obstruction.

Section 8: Notice of Violation.

- (A) Upper Bern Township shall issue a notice of violation via personal delivery and/or by United States Mail to the owner and occupant (if known) for any property whereon trees, brush, grass, plants, weeds, shrubs, vines or other uncultivated vegetation of any kind is growing or remaining in violation of any provisions of this Ordinance.
- (B) The notice of violation shall direct and require the owner and/or occupant to undertake and remove, trim, mow or cut any such vegetation, so as to conform to the requirements of this Ordinance within ten (10) days after issuance of such notice of violation.
- (C) In the case where any owner neglects, refuses or fails to comply with the terms specified by the notice of violation and the property remains in violation of the provisions specified by this Ordinance, by such failure, empowers Upper Bern Township to remove, trim, mow or cut the vegetation that is in violation of this Ordinance. The cost (time and materials) together with a penalty of ten (10%) percent to be charged upon the land upon which the structure exists as a municipal lien, or alternatively, to recover such costs and penalty together with reasonable attorneys fees incurred by the Township, in a suit at law against the owner or owners, but, failing to recover same, the judgment therefore shall be charged upon the land as a lien; and this subsection is separate from and in addition to the fine, penalty, and costs which may be imposed by any other subsection of this Ordinance.

Section 9: Violations and Penalties.

- (A) Any person who violates or permits the violation of any provision of this Ordinance shall, upon conviction thereof in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense, and shall

be subject to the payment of a fine of not less than \$100 and not more than \$1,000, plus the costs of prosecution, including attorneys fees.

- (B) Each section of this Ordinance violated shall constitute a separate offense, and each day or portion thereof in which a violation of this ordinance is found to exist shall constitute a separate offense each of which violations shall be punishable by a separate fine imposed by the District Justice of not less than \$100 and not more than \$1,000, plus the costs of prosecution, including attorneys fees, or upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a term of not more than thirty (30) days.
- (C) All fines and penalties collected for the violation of this Ordinance shall be paid to Upper Bern Township.

Section 10: Severability and Repealer.

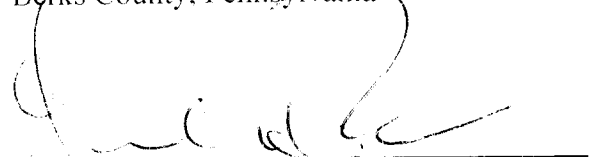
- (A) All other provisions adopted by Upper Bern Township are hereby ratified and confirmed.
- (B) Any provision of any Ordinance inconsistent with the provisions of this Ordinance is hereby repealed to the extent of the inconsistency.

Section 11: Municipal Enactment.

ORDAINED AND ENACTED by the Upper Bern Township Board of Supervisors, Berks County, Pennsylvania in public session duly assembled on July 14, 2010.

ATTEST:

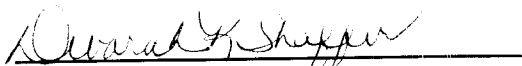
Upper Bern Township Board of Supervisors
Berks County, Pennsylvania



Chairman



Supervisor


Upper Bern Township Secretary

Supervisor