

**BOARD OF TRUSTEES
JEFFERSON TOWNSHIP, MONTGOMERY COUNTY, OHIO**

RESOLUTION NO 17-066

ASSIGNING DUTIES FOR THE NUISANCE ABATEMENT PROCESS TO THE CODE ENFORCEMENT OFFICER

The Board of Trustees of Jefferson Township, Montgomery County, Ohio met in regular meeting on the 20th day of June 2017 at 7:00 P.M. at the Township Offices located at One Business Park Drive, Dayton, Ohio with the following members present: **Roy Mann (X) James McGuire (X) Russell Back (X)**

Trustee McGuire moved for the adoption of the following resolution:

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 Jefferson 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 Jefferson Township; and

WHEREAS, Section 505.032 of the Ohio Revised Code permits a Board of Trustees, which has appointed the Code Enforcement Officer, to assign to such Code Enforcement Officer any office, positions or duties under its control;

WHEREAS, the Board of Trustees of Jefferson Township desire to assign the duties of determining if an owner's maintenance of such vegetation, garbage, refuse, or other debris constitutes a nuisance; and

THEREFORE, BE IT RESOLVED, by the Board of Trustees of Jefferson Township that the following assignment of duties and policy of procedures be adopted:

A. The Board of Trustees of Jefferson Township, pursuant to Section 505.032 of the ORC, do hereby assign to the Township Code Enforcement Officer the task of following and enforcing ORC 505.87, following the procedures outlined in this policy, and further ensuring that such property owner is provided notice of such a nuisance, an opportunity to abate the nuisance, and an opportunity to request a hearing before the Board of Trustees per the procedures of this policy.

B. **Policy Statement-** It is the policy of the Board of Trustees of Jefferson Township to encourage property owners to voluntarily maintain their property in a manner which does not constitute a nuisance. When a property owner fails to do so, the Township may take appropriate action to abate the nuisance

C. **Procedure-** Upon information that a nuisance may exist, the Code Enforcement Officer shall cause an inspection of the property to be made. If the Code Enforcement Officer determines that a nuisance condition exists, the officer shall prepare a report. A photo of the property with the date of the photo shall be presented as part of the report. the following procedure shall be followed:

a. The Code Enforcement Officer or designee shall notify the owner of the land and holders of lien of record upon the land that:

i. The owner is ordered to abate, control or remove the vegetation, garbage, refuse or other debris, the owner's maintenance of which has been determined by the Code Enforcement Officer to be a nuisance.

ii. If such vegetation, garbage, refuse or other 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 a hearing before the Board of Trustees is not requested, 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, unless within thirty (30) days the expenses, including any administrative fees, are paid to Jefferson Township.

iii. If the owner or lien holder disputes the nuisance designation, he or she has a right to request a hearing before the Board of Township Trustees.

iv. It shall be noted on the posting of the nuisance that such a hearing request will be assigned a number. The number is required to verify confirmation of receipt of the request for a hearing.

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

i. The Code Enforcement Officer or designee 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 lien holders of record. In the alternative, if the owner is a resident of the township or is a nonresident whose address is known, the Code Enforcement Officer or designee may give notice to the owner by causing the notice to be posted 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.

ii. 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.

c. If, seven days after notice is given under division (b) of this section, the owner of the land fails to abate, control, or remove the vegetation, garbage, refuse, or other debris, or no agreement for its abatement, control, or removal is entered into under division (D) of this section, the board of township trustees shall provide for the abatement, control, or removal and may employ the necessary labor, materials, and equipment to perform the task. All expenses incurred, when approved by the board, shall be paid out of the township general fund from moneys not otherwise appropriated, except that if the expenses incurred exceed five hundred dollars, the board may borrow moneys from a financial institution to pay for the expenses in whole or in part.

D. **Hearing-** A hearing before the Board of Township Trustees from an initial decision of the Code Enforcement Officer that a nuisance exists on a property within the Township may be requested by the property owner affected, any lienholder of record, or his/her agent.

a. **Request Procedure-** The hearing request shall be made orally or in writing and shall:

i. Be made and received by the office of the Code Enforcement within seven (7) calendar days of the mailing or posting of the notice or the day of the publishing of the notice in a paper of general circulation; and

ii. State the reason(s) as to why the initial decision should be reversed or modified; and

iii. State the address of the property which is the subject of the appeal; and

iv. A hearing request confirmation number shall be assigned upon receipt of the request. If the hearing request is made by phone, then an email address must also be provided to which the hearing request number will be sent within two (2) business days.

b. **Notice of Hearing-** Upon receipt of a request for hearing, a hearing date shall be set for the next regularly scheduled Board of Trustees meeting but no less than ten (10) days in advance of the hearing.

c. **Action by the Board of Trustees** -At the hearing, the owner may be represented by counsel and shall have the opportunity to present any evidence and question all witnesses relevant to the issue under consideration. Upon hearing the appeal, the Board of Trustees shall either:

i. Affirm the decision;

ii. Modify the decision; or

iii. Reverse the decision

If the Board of Trustees either affirms or modifies the initial decision of the Code Enforcement Officer, the Board of Trustees shall declare that a nuisance exists and provide that the property owner or lien holders of record have at least seven (7) calendar days from the date of the hearing to abate, control or remove the vegetation, garbage, refuse or debris or enter into an agreement with the Township to abate, control or remove the vegetation, garbage, refuse or debris.

If such vegetation, garbage, refuse or other debris is not abated, controlled or removed, or if provision for its abatement, control or removal is not made within seven (7) calendar days 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, unless within thirty (30) days the expenses, including any administrative fees, are paid to Jefferson Township.

d. **Notice of the decision of the Board of Trustees-** Notice shall be made per the procedures outlined in Section C (b) above.

e. If the Board of Township Trustees determines within twelve 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, at least four days before providing for the abatement, control, or removal of any vegetation, garbage, refuse, or other debris, the board shall give notice of the subsequent nuisance determination to the owner of the land and to any holders of liens of record upon the land as follows:

i. The board shall send written notice by first class mail to the owner of the land and to any lienholders of record. Failure of delivery of the notice shall not invalidate any action to abate, control, or remove the nuisance. Alternatively, the board may give notice to the owner by causing any of its agents or employees 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.

ii. If the owner's address is unknown and cannot reasonably be obtained, it is sufficient to post the notice on the board of township trustee's internet web site for four consecutive days, or to post the notice in a conspicuous location in the board's office for four consecutive days if the board does not maintain an internet web site.

E. **Failure to Appeal-** Failure of the property owner(s), lienholder(s) of record or their agent to request a hearing before the Board of Trustees within seven (7) days of the mailing of the notice, posting of the notice, or publishing of the notice in a paper of general circulation, shall be prima facie evidence that a nuisance does exist as stated in the notice, and shall preclude any further appeals of the notice.

F. These procedures supersede any previous procedures adopted by this board.

Trustee Back seconded the motion and the roll was called on the question of its adoption.

The vote was as follows: Roy Mann (Y) James McGuire (Y) Russell Back (Y)

Adopted: 20th day of June 2017

Roy Mann
Roy Mann, President

James McGuire
James McGuire, Vice President

Russell Back
Russell Back, Trustee

Attest: Tracey Edwards
Tracey Edwards, Fiscal Officer

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