

**MIDDLETOWN TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 823

AN ORDINANCE AMENDING THE MIDDLETOWN TOWNSHIP CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLETOWN, DELAWARE COUNTY, PA, CREATING A NEW CHAPTER 220, TREE MAINTENANCE, CONFIRMING THE RESPONSIBILITY FOR THE MAINTENANCE OF TREES ON PROPERTY LOCATED WITHIN THE TOWNSHIP, INCLUDING PUBLIC RIGHT OF WAYS; DECLARING CERTAIN TREES TO BE A PUBLIC NUISANCE; AND ESTABLISHING PROCEDURES AND PENALTIES FOR VIOLATIONS AND ENFORCEMENT THEREOF.

The Council of the Township of Middletown, Delaware County, Pennsylvania, hereby ENACTS AND ORDAINS the following amendments to the Code of Ordinances of the Township of Middletown, Delaware County, Pennsylvania:

Section 1.

The Middletown Township Code of Ordinances is hereby amended to provide for a new Chapter 220, Tree Maintenance, provided as follows:

Section 220-1. Maintenance of Trees.

- A. The maintenance, care or removal of any tree, including all costs related thereto, and the required compliance with any provision of this Chapter shall be the responsibility of the owner(s) of the property upon which the tree is located, inclusive of any area of public right-of-way extending to the paved cartway of any public street.
- B. The condition of any tree, or portion thereof, is declared to constitute a public nuisance, wherever and whenever the same shall cause or contribute to the causing of any of the following conditions to exist:
 - 1. Upon inspection by a certified arborist, a determination that the tree creates a hazardous or dangerous condition or poses a threat to the health and safety of the public;
 - 2. The lowest branch or limb of any tree or other overhanging part thereof is maintained less than eight (8) feet from the surface of any sidewalk or less than eleven (11) feet from the surface of any public roadway; or
 - 3. Irrespective of height, a determination is made that the tree interferes with or obstructs the illumination or view of any public streetlight, traffic signal or other traffic control device.
- C. In the event it is determined that the condition of a tree, or any part thereof, constitutes a public nuisance, the Township shall notify the property owner(s) in writing of said determination and the property owner(s) shall remediate the condition within thirty (30) days of the notice. If the property owner(s) fails to remediate the nuisance within the required time, a Notice of Violation will be

provided to the property owners(s) in accordance with Section 220-2 of this Chapter.

Section 220-2. Notice of Violation.

- A. In the event that the Code Enforcement Officer of the Township determines that an apparent violation of this Chapter exists, the Code Enforcement Officer shall provide the property owner(s) with a written Notice of Violation by Certified and Regular mail containing the following minimum information:
1. The name(s) of the property owner(s) of record of the property in violation;
 2. The address of the property in violation;
 3. A description of the specific violation under this Chapter;
 4. The steps necessary for compliance and the date by which the compliance must be completed; and
 5. That failure to comply within the time and manner specified constitutes a violation of this Chapter and the Township shall invoke one or both of subsections A or B of Section 220-4 of this Chapter necessary to enforce the provisions hereof.

Section 220-3. Emergency Removal.

- A. In the event that the Township shall determine that a violation of this Chapter is occurring within a public right-of-way and poses an immediate or imminent threat to the health, safety or general welfare of the public, and the written notice required in Section 220-2 hereof is not possible given the emergency nature of the violation, the Township may, without prior notice, correct the violation.
- B. The Township may charge the costs of such emergency action under this Section to the property owner(s) responsible for the violation. If such costs are not paid in full within ninety (90) days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the court of Common Pleas of Delaware County.
- C. In the event that the Township corrects a violation under this Section, the Township shall leave all logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property. It is the responsibility of the property owner(s) to remove the logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property left within the public right-of-way within (ten) 10 days of the Township's emergency action taken hereunder.
- D. Nothing in this Chapter shall prevent the Township from removing obstructions or roadside trees or vegetation which may be thrown down by wind or weather or lodged in a position so as to be a nuisance to public travel or which by reason

of any other cause, may become a source of danger to the public. The Township shall leave all logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property. It is the responsibility of the property owner(s) to remove the logs, cordwood, branch wood or other forms of wood resulting from the emergency action on the property left within the public right-of-way within (ten) 10 days of the Township's emergency action taken hereunder.

Section 220-4. Violations and Penalties; Cost of Removal.

In the event that said Notice of Violation is not complied with as directed, the Township shall take any of the following actions as it may deem necessary to enforce the provisions of this Chapter:

- A. Commence a summary enforcement proceeding before the Magisterial District Justice against the property owner(s), and upon conviction thereof, be punishable by a fine of up to Two Hundred Dollars (\$200.00) for each violation thereof. Violators shall also be responsible for court costs and reasonable attorneys' fees of the Township, as permitted by law.
- B. Cause the condition to be removed or abated by the Township, the costs for removal plus a service fee which will be charged to the property owner(s). If such costs are not paid in full within ninety (90) days, such costs may be filed as a lien against the property and collected in the same manner as other municipal liens or by personal action commenced in the Court of Common Pleas of Delaware County. Any voluntary action taken by the Township pursuant to this section shall not create any obligations on the part of the Township to continue such action, nor shall it limit, ameliorate or change the obligation of the property owner(s).

Section 2.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held invalid or unconstitutional by any courts of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not render this Ordinance invalid.

Section 3.

This Ordinance shall be effective thirty-one (31) days after its enactment.

ENACTED AND ORDAINED by the Council of Middletown Township, Delaware County, Pennsylvania, this 8th day of June 2020.

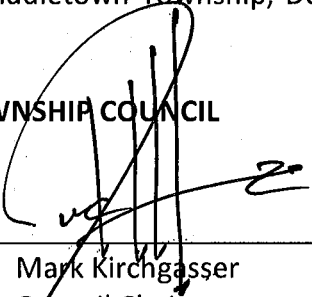
ATTEST:



Vince Visoskas
Acting Township Manager

TOWNSHIP COUNCIL

By:



Mark Kirchgasser
Council Chairman