

**AN ORDINANCE ALLOWING REMOVAL OR DESTRUCTION OF BRUSH, WEEDS, DEBRIS, ETC. SO AS TO REQUIRE THE ELIMINATION OF BRUSH, WEEDS, DEBRIS, ETC. FROM LAND WITHIN THE MUNICIPALITY SO AS TO PRESERVE THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE**

WHEREAS, the Borough Council of the Borough of Manville is entrusted with the responsibility of protecting the public health, safety and welfare by requiring the removal or destruction of brush, weeds, debris, etc. from land within the municipality where necessary to protect the public health, safety and general welfare; and

WHEREAS, in order to achieve these purposes, the Borough is entitled to utilize the mechanism of enforcement through inspection and the fixing of fines and penalties, the issuance of removal and remediation orders and the recouplement of municipal expenses in connection therewith.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Manville, County of Somerset, and State of New Jersey that it hereby adopts this Ordinance entitled "Allowing Removal or Destruction of Brush, Weeds, Debris, etc." so as to require the elimination of brush, weeds, debris, etc. from land within the municipality so as to preserve the public health, safety and general welfare, which Ordinance shall read as follows:

**SECTION 1. Removal by Owner Required**

A. Pursuant to N.J.S.A. 4:48-2.13 and 2.14, the owner or tenant of a dwelling or lands or an abandoned property, lying within the limits of the Borough shall be required to remove from such lands or dwelling or destroy brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris, where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate blighted conditions or a fire hazard. For purposes of this Ordinance, "blight" is hereby defined as land with debris, litter and/or accumulation of trash or junk upon it, which tend to depress the aesthetic value of the neighborhood.

B. The Owner or tenant of lands abutting or bordering upon the public sidewalks and roadways in the Borough shall remove or cause to be removed all grass, weeds, brush, or other impediments from that part of said highway abutting or bordering upon their respective lands, where necessary for purposes of traffic safety or to otherwise protect the health, safety and welfare of the public traveling along such highway.

**SECTION 2. Notice of Violation of Ordinance**

A. Such removal or destruction, as outlined above, shall be accomplished by the property owner or tenant, as the case may be, within ten (10) days after notice to remove or destroy the same or within such extended time period as may be granted by the investigating Borough official. Such extended time period may be granted based on the substantive and exigent circumstances present in each case. However, in no case shall this time period exceed thirty (30) calendar days beyond the date of the initial notice. In addition, no such extension shall be granted except upon the written request of the affected property owner or tenant stating, with specificity, the reasons why an extension is sought, the remedial steps proposed by the property owner or tenant to eliminated the conditions specified in the notice and a date certain by which such remediation shall take place.

B. In the event such removal or destruction, as outlined above, is not accomplished by the property owner or tenant to the satisfaction of the investigating Borough Official within the ten (10) day notice or any extended time period granted, that Borough Official shall cause a summons to issue to such property owner or tenant returnable before the Municipal Court for a violation of this Ordinance. The matter shall be prosecuted by the Municipal Prosecutor and the investigating Township Official.

### **SECTION 3. Violations and Penalties**

A. Any person who violates any provision of this Ordinance shall, upon conviction thereof in the Municipal Court, be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding ninety (90) days, or both. A separate offense may be deemed committed for each day during or on which a violation occurs or continues.

### **SECTION 4. Failure to Remove**

A. If such removal or destruction does not occur because the owner or tenant has refused or neglected or otherwise determined not to remove or destroy same, despite the Notice of Violation warning set forth in Section 2A and the summons and Municipal Court procedure set forth in Section 2B, the Borough itself, as an additional remedy, may see to the removal or destruction of such brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris and other impediments where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate blighted conditions or a fire hazard, by utilizing the procedures set forth in Section 5A herein below.

### **SECTION 5. Municipal Civil Remedy; Service of Notice and Public Hearing**

A. The Borough may proceed to remediate the condition itself in accordance with the self-help civil remedy authorized by N.J.S.A. 40:48-2.14 after due process as hereafter defined. It may authorize the investigating Borough Official to remove from such lands or dwelling or destroy brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris, where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate blighted conditions or a fire hazard, subject to the "due Process" procedure delineated herein.

B. The property owner or tenant shall be entitled to a hearing before the Borough Council. Service of Notice of this hearing shall be made upon such owner, lessor or its agent by the Borough. This Service of Notice provided to the owner, lessor or agent shall state the remediation action which may be taken by the Borough council at that meeting.

C. In the event of an inability to serve the owner, lessor or agent after reasonable effort, pursuant to N.J.S.A. 40:48-2.14, sufficient notice shall be deemed to have been given if such notice is posted on the premises in a conspicuous place.

D. Within fourteen (14) days of receipt of this service of notice or any extension of time granted thereto by the Borough Council, a public hearing shall be held by the Borough Council, at which time, after the presentation of evidence by the appropriate Borough Official and the property owner/tenant, if may, if evidence warrants it, adopt a resolution authorizing the remediation of the condition in accordance with Section 6A herein below.

**SECTION 6. Removal by Borough; Certification of Costs; Costs as Lien**

A. Pursuant to Resolution, the appropriate Borough Official shall oversee and direct the removal and destruction of the aforementioned brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris and other impediments. Such Borough Official shall then certify the cost thereof to the Borough Council which shall examine the certificate and, if found correct, shall cause the cost as shown thereon to be charged against said dwelling or lands.

B. The amount so charged shall forthwith become a lien upon such dwelling or lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

**SECTION 7. Borough Official**

A. The investigating / enforcement Borough Official under this Ordinances may be the Borough Construction Official, Director of Public Works (or designee), Borough Health Officer (or designee), Borough Fire Official, or Borough Zoning Officer, or their designated agent, as these Officials may determine in their collective judgment, with the collaboration and approval of the Borough Administrator.

**SECTION 8. Construction.**

Where consistent with the context in which used in this ordinance, words importing the singular shall include the plural; words importing the plural shall include the singular; and words importing one gender shall include all other genders.

**SECTION 9. Inconsistency.**

Should any provision of this ordinance be inconsistent with the provisions of any prior ordinances, the inconsistent provisions of said prior ordinances are hereby repealed, but only to the extent of such inconsistencies.

**SECTION 10. Severability.**

In the event that any provision of this ordinance or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect and, to realize this intent, the provisions and applications of this ordinance are declared to be severable.

**SECTION 19. Purpose of Captions.**

Captions contained in this ordinance have been inserted only for the purpose of facilitating reference to the various sections, and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

**SECTION 20. Effective Date.**

This ordinance shall be effective upon final adoption, approval and publication in accordance with law.

## **STATEMENT OF PURPOSE**

The purpose of this Ordinance is to establish regulations for removal or destruction of brush, weeds, debris, etc. from neglected or abandoned properties.

Borough of Manville,

Angelo Corradino, Mayor

ATTEST:

Philip E. Petrone, Clerk

**ORDINANCE #2012-1123**

**FIRST READING:**

**ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
	√	<b>ASHER</b>	√			
		<b>KOMOROSKI</b>	√			
√		<b>LYNN</b>	√			
		<b>ONDERKO</b>	√			
		<b>PETZINGER</b>	√			
		<b>SZABO</b>	√			
		<b>MAYOR CORRADINO</b>				

**ADOPTED** this 15<sup>th</sup> day of October, 2012.

*Philip E. Petrone*

Attest:

Philip E. Petrone, Clerk

**SECOND READING:**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
√		<b>ASHER</b>	√			
		<b>KOMOROSKI</b>	√			
		<b>LYNN</b>				√
		<b>ONDERKO</b>	√			
		<b>PETZINGER</b>	√			
	√	<b>SZABO</b>	√			
		<b>MAYOR CORRADINO</b>				

**ADOPTED** this 12<sup>th</sup> day of November, 2012

*Philip E. Petrone*

Attest:

Philip E. Petrone, Clerk