

## ORDINANCE NO. 3847

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET AND STATE OF NEW JERSEY, MORE PARTICULARLY CHAPTER 88, BRUSH, GRASS AND WEEDS, SECTION 88-1, CONDITIONS FOR REQUIRED APPROVAL; SECTION 88-2, REMOVAL BY TOWNSHIP; COST TO BECOME LIEN AND ADD SECTION 88-5, POWERS OF CONSTRUCTION CODE OFFICIAL NOT AFFECTED.**

### SUMMARY

An ordinance amending Code Chapter 88, Brush, Grass and Weeds as follows: revision and expansion of what constitutes "notice" by permitting notice to be effectuated by publication and posting on the property in certain situations. Said ordinance also provides that the powers of the Construction Code Official not be affected by revisions to the ordinance.

**BE IT ORDAINED** by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey that the Code of the Township of Franklin be and it is hereby amended as follows:

### SECTION I

**Chapter 88, Brush Grass and Weeds**, is amended as follows:

#### **Chapter 88, BRUSH, GRASS AND WEEDS**

##### **§ 88-1. Conditions for required removal.**

The owner, tenant or occupant of lands lying within the Township, where it shall be determined by the Department of Health to be necessary and expedient for the preservation of public health, safety and general welfare or to eliminate a fire hazard shall remove from such lands brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash and debris within 10 days after notice to remove the same, which notice may be given *either personally or by regular mail addressed to and certified mail, return receipt requested, at the last known address of such owner, tenant or occupant the tenant, owner or occupant, but if the whereabouts of such person (s) is unknown and the same cannot be ascertained in the exercise of reasonable diligence, and an affidavit shall be made to that effect, then service of such notice upon such person(s) may be made by publishing in the Township, or, in the absence of such newspaper, in one printed and published in the County of Somerset and circulating in the Township. A copy of such notice shall also be posted in a conspicuous place on lands and premises affected thereby.*

##### **§ 88-2. Removal by Township; cost to become lien. [Amended 11-14-2000 by Ord. No. 3165]**

Whenever the owner, tenant or occupant of any lands shall refuse or neglect to remove from said lands all brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth,

garbage, trash and debris as required by § 88-1 and after notice given as provided *therein*, then the same may be removed under the direction of the Township Manager *or his Designee*. The cost paid or incurred for investigating, administering and removing same shall be charged against such lands, and the amount so charged shall forthwith become a lien upon the lands and shall be added to and become and form part of the taxes then next to be assessed and levied upon the lands and shall be collected and enforced according to law. The Township may elect to foreclose on the properties of repeat violators and the proceeds used to maintain said property.

**§ 88-3. Return of land to its natural condition. [Added 6-10-1998 by Ord. No. 2089]**

- A. The owner, tenant or occupant of lands may make an application to the Department of Health to allow land to revert back to its natural condition. Application forms may be obtained from the Department of Health.
- B. The application will require submission of a survey of the subject land. Additionally, property owners within 200 feet of the subject property must be notified of the application via certified mail return receipt requested within seven days of the date the application was filed. The notification shall include the name and address of the applicant, a description/designation of the lands affected, and a method and deadline by which to raise objection to the application. An application will not be deemed complete until proof of service upon contiguous property owners is submitted to the Department of Health.
- C. Once a completed application has been received by the Department of Health, it will be forwarded to the Environmental Commission. The Environmental Commission will make a determination within 30 days after receipt of the completed application as to whether permission should be granted to allow the land to return to its natural condition. The Environmental Commission must consider impact upon public health and safety in making its determination.
- D. The Environmental Commission shall notify the Department of Health of its determination. The Department of Health shall then issue written notification of the determination on the application to the applicant.

**§ 88-4. Violations and penalties. [Added 4-17-1989 by Ord. No. 1478]**

Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be subject to the penalties as provided in Chapter 1, Article II, General Penalty, at the discretion of the court. Every day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

**§ 88-5. Powers of Construction Code Official Not Affected.**

**No provision of this Chapter shall be construed as restricting or otherwise abrogating the enforcement and other powers of the Township's Construction Code Official under the New Jersey Uniform Construction Code, including without limitation N.J.S.A. 52:27D-123 et seq., and N.J.A.C. 5:23-1.1 et seq. (collectively, the "Code"). The provisions of this Chapter shall be construed as consistent with the enforcement and other powers of the Township's Construction Code Official under the Code.**

## **SECTION II**

Each clause, section or subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

## **SECTION III**

All ordinances or parts of ordinance inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency.

## **SECTION IV**

This ordinance shall take effect immediately upon adoption and publication according to law.

### **ORDINANCE NO. 3847**

THIS IS A TRUE COPY OF AN ORDINANCE ADOPTED BY THE  
TOWNSHIP COUNCIL, TOWNSHIP OF FRANKLIN, SOMERSET, NJ

INTRODUCED: September 8, 2009

PUBLIC HEARING: October 13, 2009

ADOPTED:

NOTICE OF FINAL ADOPTION:

EFFECTIVE DATE:

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ANN MARIE McCARTHY, TOWNSHIP CLERK