ORDINANCE NO. 372

AN ORDINANCE OF THE BOROUGH OF BERLIN, SOMERSET COUNTY, PENNSYLVANIA, REGULATING THE HEIGHT OF GRASS, WEEDS, AND OTHER VEGETATION; PROVIDING FOR NOTICE; PROVIDING FOR ABATEMENT; AND PROVIDING FOR PENALTIES

WHEREAS, the Council of the Borough of Berlin (the "Borough") is authorized under 8 Pa.C.S. § 1202 to prohibit and remove any nuisance on public or private grounds, including accumulations of garbage and rubbish, and to require the removal of any nuisance by the owner or occupier of the grounds or to remove the nuisance itself and collect the cost of removal; and

WHEREAS, the Council of the Borough is authorized under 8 Pa.C.S. § 1203 to make and adopt all ordinances, bylaws, rules, and regulations not inconsistent with the Constitution of Pennsylvania and the laws of the Commonwealth as may be expedient or necessary for the proper management, care, and control of the borough and the maintenance of peace, good government, safety, and welfare of the borough; and

WHEREAS, the Council finds that excessive growth of grass, weeds, and other vegetation constitutes a public nuisance, creates conditions detrimental to the health, safety, and welfare of residents, provides harborage for rodents and other vermin, and adversely affects property values and the aesthetic character of the Borough; and

WHEREAS, the Council deems it necessary and appropriate to establish regulations concerning the height of grass, weeds, and other vegetation on properties within the Borough, and to provide for enforcement, abatement, and penalties for violations thereof.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Berlin, Somerset County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, as follows:

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the "Grass and Vegetation Height Ordinance."

SECTION 2. DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings indicated:

BOROUGH — The Borough of Berlin, Somerset County, Pennsylvania.

CODE ENFORCEMENT OFFICER — The person or persons appointed by Borough Council to administer and enforce the provisions of this Ordinance, or any other Borough officer or employee designated by Council to perform such duties.

GRASS, WEEDS, AND OTHER VEGETATION — All vegetative ground cover, including but not limited to grasses, weeds, brush, undergrowth, and herbaceous plants, but excluding agricultural crops, ornamental gardens maintained in a cultivated manner, trees, shrubs, and other ornamental plantings that are part of a landscaping plan.

IMPROVED PROPERTY — Any lot or parcel of land upon which a structure intended for human occupancy or use is located.

NUISANCE VEGETATION — Grass, weeds, and other vegetation exceeding six (6) inches in height, measured from ground level.

OWNER — Any person, partnership, association, corporation, or other entity holding legal or equitable title to real property, including but not limited to a contract purchaser, and any agent, lessee, or other person having control or possession of the property.

PERSON — Any individual, partnership, association, corporation, or other legal entity.

UNIMPROVED PROPERTY — Any lot or parcel of land upon which no structure intended for human occupancy or use is located.

VEGETATION — See "Grass, Weeds, and Other Vegetation."

SECTION 3. REGULATIONS

(a) **General Prohibition.** No owner or occupier of any property within the Borough, whether improved or unimproved, shall permit or allow grass, weeds, or other vegetation to exceed six (6) inches in height, measured from ground level.

(b) **Scope of Application.** The provisions of this Ordinance shall apply to all real property within the corporate limits of the Borough, including but not limited to:

(1) All improved and unimproved lots and parcels;

(2) Residential, commercial, industrial, and institutional properties;

(3) Vacant lots; and

(4) The areas between the property line and the street curb or edge of the cartway, including sidewalks and tree lawns, which shall be maintained by the owner or occupier of the abutting property.

(c) **Exceptions.** The following areas and vegetation types are exempt from the provisions of this Ordinance:

(1) Agricultural crops grown for commercial purposes on properties zoned for agricultural use;

(2) Areas designated as natural conservation areas, wetlands, or protected environmental areas, provided such designation has been approved by the Borough;

(3) Ornamental gardens, wildflower gardens, or native plant gardens that are clearly defined, maintained in a cultivated manner, and do not constitute a nuisance or fire hazard as determined by the Code Enforcement Officer;

(4) Trees, shrubs, and ornamental plantings that are part of a landscaping plan and do not constitute a nuisance; and

(5) Properties subject to active agricultural use exceeding 10 acres in size, provided that vegetation within 25 feet of any property line abutting residential property or public right-of-way shall be maintained in compliance with this Ordinance.

SECTION 4. NOTICE REQUIREMENTS

(a) **Initial Notice.** Upon discovery or receipt of a complaint that nuisance vegetation exists on any property in violation of this Ordinance, the Code Enforcement Officer shall cause written notice to be given to the owner and occupier of the property, if any, directing and requiring such person to cut, trim, or remove the nuisance vegetation within ten (10) calendar days from the date of the notice.

(b) **Contents of Notice.** The notice shall contain the following information:

(1) The name of the owner of record and any occupier against whom the Borough intends to take action;

(2) The location of the property in violation, including the street address and tax parcel identification number;

(3) A description of the specific violation, citing this Ordinance;

(4) A statement that the owner or occupier must cut, trim, or remove the nuisance vegetation within ten (10) calendar days from the date of the notice;

(5) A statement that failure to comply with the notice within the time specified will result in the Borough causing the vegetation to be cut, trimmed, or removed, and the cost thereof, together with a penalty of ten percent (10%) of the cost, will be charged to the owner and may be collected as a municipal lien against the property or by civil action;

(6) A statement that failure to comply may also result in the imposition of fines and penalties as provided in this Ordinance; and

(7) Contact information for the Code Enforcement Officer.

(c) **Method of Service.** The notice required by this Section shall be served by one of the following methods:

(1) Personal service upon the owner or occupier, or upon an adult individual in charge of any building on the premises or at the residence of such person; or

(2) First-class mail, postage prepaid, addressed to the owner at the address shown on the most recent tax assessment records of [COUNTY NAME] County, and to any occupier at the property address; or

(3) If notice cannot be served by personal service or mail, by posting a copy of the notice in at least one (1) conspicuous place on the premises.

(d) **Proof of Service.** The Code Enforcement Officer shall maintain a record of the date and method of service of each notice issued under this Ordinance.

(e) **One Notice Per Calendar Year.** After an initial written notice has been provided to a property owner in any calendar year pursuant to subsection (a), no additional written notice shall be required for subsequent violations on the same property during the remainder of that calendar year, provided that the owner may be cited directly for such subsequent violations.

SECTION 5. ENFORCEMENT

(a) **Enforcement Authority.** This Ordinance shall be enforced by the Code Enforcement Officer or other person designated by Borough Council.

(b) **Enforcement as Summary Offense.** Violations of this Ordinance shall be enforced by criminal action in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney.

(c) **Inspection.** The Code Enforcement Officer is authorized to inspect properties within the Borough at reasonable hours and in a reasonable manner for the purpose of determining compliance with this Ordinance, subject to constitutional standards.

(d) **Citations.** After the ten (10) day compliance period specified in the notice has expired without compliance, or after one initial written notice has been provided in a calendar year, the Code Enforcement Officer is authorized to issue citations against owners or occupiers for violations of this Ordinance.

SECTION 6. PENALTIES

(a) **Criminal Fines.** Any person who violates any provision of this Ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than One Hundred Dollars ($100.00) and not more than One Thousand Dollars ($1,000.00), together with court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings.

(b) **Separate Offenses.** Each day that a violation continues after the expiration of the compliance period specified in the notice shall constitute a separate offense for which a separate fine may be imposed.

(c) **No Imprisonment.** No penalty of imprisonment shall be imposed for violations of this Ordinance.

(d) **Additional Remedies.** In addition to the penalties provided in this Section, the Borough may institute appropriate actions or proceedings at law or in equity to prevent or restrain violations of this Ordinance.

SECTION 7. ABATEMENT

(a) **Authority to Abate.** If the owner or occupier fails to cut, trim, or remove nuisance vegetation within the time specified in the notice issued pursuant to Section 4, the Borough may cause the work to be done and the nuisance vegetation to be cut, trimmed, or removed.

(b) **Entry Upon Property.** The Borough, through its officers, employees, agents, or contractors, may enter upon the property for the purpose of cutting, trimming, or removing nuisance vegetation after the expiration of the compliance period specified in the notice.

(c) **Cost of Abatement.** The cost of cutting, trimming, or removing nuisance vegetation by the Borough, together with a penalty of ten percent (10%) of such cost, shall be charged to the owner of the property.

(d) **Statement of Costs.** Within thirty (30) days following abatement, the Code Enforcement Officer shall prepare and file with the Borough Treasurer a statement of the costs of abatement, including the administrative penalty provided in subsection (c).

(e) **Notice of Costs.** The Borough Treasurer shall provide written notice to the owner of the property, by first-class mail addressed to the owner at the address shown on the most recent tax assessment records of Somerset County, stating the total amount due, including the cost of abatement and the ten percent (10%) penalty.

(f) **Payment.** The owner shall pay the total amount due within thirty (30) days of the date of the notice of costs.

SECTION 8. COLLECTION OF COSTS

(a) **Municipal Lien.** If the owner fails to pay the costs of abatement and penalty within the time specified in Section 7(f), the Borough may file a municipal lien against the property and collect the amount due, together with interest, costs, and reasonable attorney fees, in the manner provided by law for the collection of municipal claims under 53 P.S. § 7101 et seq.

(b) **Action in Assumpsit.** As an alternative or in addition to filing a municipal lien, the Borough may recover the costs of abatement, penalty, interest, costs, and reasonable attorney fees by an

action in assumpsit against the person or persons who were the owner or owners of the property at the time the violation occurred or at the time the costs first became payable.

(c) **Exemption from Costs.** The Borough shall be exempt from the payment of costs in any civil action brought to enforce this Ordinance or to collect amounts due hereunder.

SECTION 9. PAYMENT OF FINES AND COSTS

All fines, penalties, costs, and fees collected under this Ordinance shall be paid to the Borough Treasurer for the use of the Borough.

SECTION 10. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 11. REPEALER

All ordinances or parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 12. EFFECTIVE DATE

This Ordinance shall become immediately upon enactment.

ORDAINED AND ENACTED THIS 6th day of August, 2026.

ATTEST: BOROUGH OF BERLIN

Traci Horning, Executive Secretary

Michael Lottig, President

APPROVED BY THE MAYOR this 6th day of August, 2026

Joseph Krause