

*NO.* \_\_\_\_\_

## **ORDINANCE**

An Ordinance amending and supplementing the Allegheny County Code of Ordinances, Division 7, entitled "Land Use," through the creation of a new Chapter 775, entitled "Offenses Against Property," in order to protect the property rights, health, safety and well-being of individuals within the County.

**WHEREAS**, under Commonwealth law, trespassing on agricultural and other open land is prohibited if the property is "posted as provided by law," which is typically accomplished by landowners and farmers wishing to exclude trespassers by posting "No Trespassing" or similar signs on the perimeter of their property; and,

**WHEREAS**, most of these signs are made of cardboard or other material which, over time, deteriorates due to the weather, and/or the writing on them is rendered illegible; and,

**WHEREAS**, the deterioration of these signs can give rise to undesirable and potentially dangerous situations, particularly when hunters are unknowingly trespassing on private property owned by individuals who wish to prohibit hunting on their property; and

**WHEREAS**, it is the judgment of Council that any situation in which a property owner feels compelled to initiate or is otherwise engaged in a confrontation with an individual whom they regard as a trespasser carries with it an unacceptable risk of escalation and potential bodily injury to one or more involved parties, which may also entail additional violations of Commonwealth law or regulation; and

**WHEREAS**, in order to provide a more permanent and recognizable posting with less upkeep and maintenance, several states have adopted legislation to permit landowners to simply paint stripes of purple paint on trees and posts that are spaced close enough so that they are visible and recognizable to anyone approaching the property.; and,

**WHEREAS**, the Commonwealth of Pennsylvania adopted such a "purple paint law" via Act 103 of 2019; and

**WHEREAS**, the final votes on Act 103 were 199-0 in the Commonwealth's House of Representatives on November 18, 2019 and 49-0 in the Commonwealth's Senate on November 21, 2019, and the measure was signed into law by Governor Wolf on November 27, 2019; and

**WHEREAS**, suitable paints for the purpose envisioned by Act 103 are already available, as paint manufacturers have formulated cans of spray paint and brush-able paint specifically marketed as "No hunting" paint to comply with other "purple paint" laws; and,

**WHEREAS**, the fiscal note on Act 103 prepared for the House Appropriations Committee found that enactment of the legislation would have "no fiscal impact on Commonwealth funds"; and

**WHEREAS**, per the text of Act 103, the "purple paint" provisions of the Commonwealth's law do not apply in counties of the first or second class, the latter of which includes Allegheny County; and

**WHEREAS**, it is the judgment of Council that the County's adoption of a "purple paint law" similar to that already in force throughout most of the Commonwealth will significantly minimize the potential for conflict among property owners and individuals that they may regard as trespassers and, in the process, will function to protect the health, safety and well-being of the County's residents while providing a more durable, lower cost, easily applied alternative to traditional "no trespassing" signage for property owners;

***The Council of the County of Allegheny hereby enacts as follows:***

***SECTION 1. Incorporation of the Preamble.***

The preamble to this Ordinance is hereby incorporated in its entirety herein.

***SECTION 2. Amendment of the Code.***

The Allegheny County Code of Ordinances, Division 7, entitled "Land Use," is hereby amended and supplemented through the creation of a new Chapter 775, entitled "Offenses Against Property," and comprised as follows:

**Chapter 775  
Offenses Against Property**

**§775-1. Trespass.**

- A. A person commits a summary offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by the placement of identifying purple paint marks on trees or posts on the property which are:

1. Vertical lines of not less than eight inches in length and not less than one inch in width;
  2. Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground; and
  3. Placed at locations that are readily visible to a person approaching the property and no more than 100 feet apart.
- B. This Section shall not apply to any unarmed person who enters onto posted property for the sole purpose of retrieving a hunting dog, guide or other assistance animal, or pet.
- C. Upon conviction of a first offense as defined within this Section, a person shall be punished by a fine of not more than \$200. Upon conviction of a second or subsequent offense, a person shall be punished by a fine of not more than \$300 and/or a term of imprisonment of not more than 90 days.
- D. For the purposes of this Section, each day upon which a violation occurs shall constitute a separate offense.
- E. No portion of this Section shall be read or interpreted to alter, enlarge, limit, or in any way impact rights and/or remedies otherwise available to property owners under the terms of any Commonwealth statute applicable within Allegheny County, including 18 Pa.C.S.A. §3503 (relating to criminal trespass).

***SECTION 2. Effective Date.***

The provisions of this Ordinance shall become effective 30 days after the date of final approval.

***SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.***

***SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.***

***PRIMARY SPONSOR: PRESIDENT CATENA***

***CO-SPONSORS:***

*Enacted in Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2020,*

*Council Agenda No. \_\_\_\_\_*

\_\_\_\_\_  
**Patrick Catena**  
**President of Council**

*Attest:* \_\_\_\_\_  
**Jared E. Barker, Chief Clerk**  
**Allegheny County Council**

*Chief Executive Office \_\_\_\_\_, 2020*

*Approved:* \_\_\_\_\_  
**Rich Fitzgerald**  
**Chief Executive**

*Attest:* \_\_\_\_\_  
**Sonya Dietz**  
**Executive's Secretary**