

Chapter 27

NUISANCE

§ Article 1. Unsafe Premises

[History: Adopted by the Mayor and Council of the Town of Millington 02-05-1987 as Ordinance No.1-87.]

§ Article 1. Unsafe Premises

§1-1 Purpose:

It is the purpose of this article and regulations passed pursuant thereto to secure and protect the general public from premises conditions found to be dangerous or detrimental to human life, limb, health, property, or safety.

§1-2 Scope and Application:

The provisions of this article are remedial and shall apply to the condition of all premises and to use, occupancy, structural condition, removal and demolition of all structures and appurtenances connected or attached thereto irrespective of their date of construction, alteration, repair or installation.

§1-3 Intent:

Except as to emergency circumstances, this article shall be enforced only after violations have first been brought to the attention of the owner by the issuance of a warning notice and a reasonable time and full opportunity for voluntary compliance has been afforded to the owner.

§1-4 Definitions:

For the purpose of this article and unless otherwise expressly stated, the following words, phrases and their derivatives shall have the meaning set forth in this Section; where terms are not defined under the provisions of this article or under the provisions of any building, fire, safety, health, plumbing, or electrical code or ordinance enforceable in Kent County, such terms shall have ascribed to them their ordinarily accepted meanings in the context utilized.

TOWN – means the incorporated town of Millington, Maryland.

DWELLING – when used in this article without other qualifications means a structure used whether occupied or not for residential purpose.

EGRESS – means an exit or a place or a means to leave a dwelling unit by continuous, unobstructed travel.

ENFORCEMENT OFFICER – means THE HEALTH OFFICER FOR KENT COUNTY or any person appointed or authorized the HEALTH OFFICE FOR KENT COUNTY, to exercise, under the Enforcement officer's supervision, any or all of the responsibilities charged to the Enforcement Officer by the provisions of the article.

GARBAGE – means animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of foods exclusive of recognized industrial by-products from canneries and other food processing industries, and human or animal feces.

OWNER – means a natural person, his heirs, executors, administrators, or assigns and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

PREMISES – means a lot, plot, or parcel of land including the structures, dwellings, and dwelling units thereon.

REMOVE – means taking away and off the premises, as well as the removal of backfill of all excavations and openings in the earth as the result of demolition.

REPAIR – means the replacement of existing work for the purpose of its maintenance.

REQUIRED – means “mandatory” in the imperative sense.

RUBBISH – means all solid waste other than garbage.

STRUCTURE – means anything which is built or constructed and which is fastened, anchored, or rests upon the ground.

§1-5 Public Nuisance.

A premises or structure may be found and declared by the Enforcement Officer to be a public nuisance if it:

- (1) constitutes a fire hazard,
- (2) has inadequate egress,
- (3) is structurally unsafe and unstable and is likely to partially or completely collapse,
- (4) constitutes a hazard to safety or health by reason of unsafe equipment, disrepair, dilapidation, obsolescence, or abandonment,
- (5) contributes to including but not limited to water contamination, vermin, or rodent infestation, the accumulation of garbage, rubbish, and human or animal feces, or undue exposure of persons to the elements.

It shall be unlawful to refuse or neglect or otherwise to fail to abate, by repair improvement or removals, any condition declared as a public nuisance.

§1-6 Inspections.

The Enforcement Officer shall make such inspections as are necessary to determine the existence of a public nuisance. He shall maintain a record of every such inspection.

§1-7 Right of Entry for Inspections.

- (a) The Enforcement Officer, or a duly appointed and authorized representative may enter any structure, dwelling, or premise in the Town to perform any duty charged to the Enforcement Officer by this article provided the Enforcement Officer shall give notice in writing of the day of the inspection to the owner, as shown by the tax assessment records, and occupant of the premises, which said notice shall be mailed ten (10) days in advance of the inspection date to the last known address of both of the above.

- (b) If the occupant or the owner refuses or fails to allow an entry and inspection or if a life threatening emergency situation exists and entry is order for such entry. The order will contain a written application signed and sworn to by the Enforcement Officer setting forth the purpose of the entry and the address and location of the premises to be entered. Upon such application, if it appears to any Judge of the District Court for Kent County that there is provision of this article, then such Judge may forthwith issue an order directed to the Enforcement Officer authorizing an entry to such premises. The order shall state that any entry made there under shall be made within thirty (30) days from the date of the issuance thereof and after the expiration of said thirty day period said order shall expire.
- (c) Each occupant of a premise shall give the owner access to any part of such premises at all reasonable times upon reasonable notice for the purpose of making repairs or taking such action as necessary to effect compliance with the provisions of this article or any lawful order issued pursuant to the provisions of this article.

§1-8 Warning Notices.

- (a) Except as to the emergency circumstances, the Enforcement Officer upon first determining that a violation of this article exists, shall issue a written warning notice advising the owner of the property in violation of the following:
 - (1) The nature of the violation;
 - (2) Repair and improvement necessary to abate the public nuisance;
 - (3) A reasonable time not to exceed 120 days to achieve voluntary compliance;
 - (4) The date after which a Notice to Vacate and to Repair or Remove will be issued if voluntary compliance is not achieved.
 - (5) An explanation of the owner's rights of appeal under the provisions of this article.
- (b) A warning notice need not be issued when conditions constitute an emergency and present an imminent or immediate threat of danger to human life or limb, health, property, or the public safety.

§1-9 Notices to vacate and to repair or remove.

The Enforcement Officer shall issue a written Notice to Vacate and to Repair or Remove whenever:

- (a) An emergency circumstance exists and presents an imminent or immediate threat of danger to human life or limb, health, property, or the public safety.
- (b) Voluntary compliance with a warning notice is not achieved with the time indicated.

This notice shall require the owner to vacate the premises within a stated time and, within sixty (60) days, either to complete specific repairs, or improvements or to remove the public nuisance of any portion thereof, including to remove all debris and to backfill all excavations and openings in the earth, or otherwise to comply with other applicable provisions of this article. Upon evidence of a good faith effort to commence compliance with such notice, the Enforcement Officer may, in his sole discretion, grant a reasonable extension of time to complete compliance.

§1-10 Posting of public Nuisances.

Upon issuance of a Notice to Vacate and to Repair or Remove, the Enforcement Officer shall cause to be posted, at each entrance of the premises declared to be a public nuisance, the following notice: "THESE PREMISES ARE UNSAFE AND HAVE BEEN DECLARED TO BE PUBLIC NUISANCE; USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE "MAYOR AND TOWN COUNCIL.""

Such notice shall remain posted until the required repairs are made or removal is completed. It shall be unlawful for any person, firm, or corporation or their agents, or other servants to remove such notice without written permission of the Enforcement Office, or for any person to trespass upon the premises except for the purpose of making the required repairs or of removing the public nuisance.

§1-11 Service.

Whenever the Enforcement Officer shall issue a Warning Notice or a Notice to Vacate and to Repair or Remove, he shall give such notice to the owner of record or agent, and to the person in control of the premises, by return receipt registered or certified mail, or by personal service through the Sheriff of Kent County or through other legally accepted means. Service on nonresidents and persons who cannot be found in the County shall be made:

- (1) By sending a copy of such notice to the owner of record by register or certified mail to such owner's last known address;
- (2) by publishing such notice to the owner of record by register or certified mail to such owner's last known address,
- (3) by publishing such notice twice in a newspaper of general circulation in the County and
- (4) by posting such notice on the property concerning in a conspicuous manner.

Effective service shall be deemed to have been made on the last day to occur of such mailing, publication, and posting.

§1-12 Abatement by Town at owner's expense.

In the event that the owner of record fails to comply with a Notice to Vacate and to Repair or Remove within sixty (60) days of the effective service of the notice, or in the event that the premises has been posted as unsafe and there exists an emergency circumstance which presents an imminent or immediate threat of danger to human life or limb, health, property, or public safety, the Enforcement Officer may enter the premises concerned and cause the same to be repaired or removed and any dangerous conditions to be remedied, as to case may be at the expense of the owner of record.

§1-13 Collection of expenses:

Of the owner of record fails to repay the Town for expenses incurred under Section 1-11 within thirty (30) days after written demand has been mailed to such owner's last known address the Enforcement Officer shall notify the Town Treasurer and such expenses shall be charged to the property, shall constitute a lien thereon, shall be entered on the tax records kept by the Town Treasurer and shall be collectible as are taxes in arrears under the provision of Section 9-12 of the Kent County Code.

§1-14 Penalty for violations.

Any person who shall violate any provision of this article shall, upon conviction thereof, be subject to a civil penalty of not more than One Thousand (\$1,000) Dollars at the discretion of the Court. Each day that a violation continues after due notice of the penalty has been effectively served shall be deemed a separate offense.

§1-15 Prosecution.

In case any notice as provided in Section 1-9 or 1-10 is not promptly complied with, the Enforcement Officer may institute an appropriate action in a court of competent jurisdiction:

- (1) to restrain, correct, or remove the violation;
- (2) to prevent the trespass, occupation, or use of the structure in violation of, or not in compliance with, the provisions of this article.
- (3) to order the payment of the civil penalty authorized by this article, or
- (4) to order such other relief as shall be just or equitable to secure and protect the general public from premises conditions found to be dangerous or detrimental to human life, limb, health, property, or safety.
- (5) ascertain costs, including attorney's fees may be charged to the owner including the record owner as well as any other person prosecuted under this section. As such costs, fees, and penalties may be charged to the property and constitute a lien as provided in 1-13 on this Ordinance.

§1-16 Filing of judicial appeals.

Upon effective service of a Notice to Vacate and to Repair or Remove, any person may appeal such notice within thirty (30) days of the date thereof to any court of competent jurisdiction. Such appeal shall stay neither abatement by the town nor the requirement to vacate the premises and to refrain from trespassing thereupon except for the purpose of making the required repairs or of removing the public nuisance, unless a stay shall be granted by the court to which such appeal has been made or by the Enforcement Officer.