

Chapter 27

NUISANCE

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

§ Article I. Unsafe Premises

§ 27-1 Purpose:

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

§ 27-2 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.

§ 27-3 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.

§ 27-4 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 & Queen Anne's 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 any person appointed or authorized by the Town of Millington, to exercise any or all of the responsibilities charged to the Enforcement Officer by the provisions of this article.

GARBAGE – all organic waste, consisting of the residue of animal, fruit, or vegetable matter, resulting from the preparation, cooking, handling, or storage of food, exclusive of human or animal feces.

JUNK – old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, iron, steel, and any other old or scrap material, including wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts or household appliances.

NUISANCE – The following specific acts, deeds, or conditions:

- A. The deposit or accumulation of any foul, decaying, or putrescent substance or garbage or refuse or rubbish or other offensive matter in or upon any land, street, or highway unless in a manner approved by the Enforcement Officer or a properly designated agent of the Town.
- B. The discharge of any foul liquids or sewage from any type of mobile vehicle holding tank except into an approved sewer or treatment works, accepting normal agricultural practices.

- C. The disposal of human excreta, dead animals or fowl upon any land, street, or highway or in or upon any public or private place without it being buried to a suitable depth or otherwise disposed of in a manner approved by the Enforcement Officer.
- D. The conveying of garbage, swill, refuse, dead animals, dead fowl, or other filthy matter through any street or any highway, public or private, in a manner not approved by the Enforcement Officer.
- E. The use of garbage, offal, or any other decaying or putrescible matter either by itself or in connection with ashes or other harmless matter, for the purpose of filling in any land or other space, exempting licensed sanitary landfills.
- F. The existence of weeds more than 12 inches in height upon any property in any residential area within 200 feet of a habitable dwelling. Areas noted as official wetlands or isolated by official wetlands, agricultural lands, and forest are exempt.
- G. The permitting or existing of an unfit structure as defined by this chapter.
- H. Permitting the presence of rats and allowing property to become a rat harborage.
- I. The unsightly presence of junk on any property in excess of 30 days and stored and maintained in an unsafe or unsanitary manner and stored or maintained within 200 feet of a public or private road or dwelling.
- J. Except for material originating in or delivered from lands within the territorial boundaries of the Town of Millington, no materials containing designated hazardous substances as defined and identified in the Environment Article, §7-201, of the Annotated Code of Maryland, shall be deposited upon any lands within the territorial boundaries of the Town of Millington.

OWNER – means a natural person, his heirs, executors, administrators, or assigns and also includes a firm, partnership, or corporation, it's 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.

REFUSE – Ashes, garbage, rubbish, junk, industrial waste, motor drain oil, dead animals, and all other solid waste materials, including salvageable waste.

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.

RESIDENTIAL AREA – an area having an average of 40,000 square feet or less per dwelling unit.

RUBBISH – All refuse other than garbage, whether combustible or noncombustible, and such forms shall include but not be limited to the following: rubbish from building construction or reconstruction, dead trees, uprooted tree stumps, slash, rubble, street refuse, abandoned automobiles, household appliances, machinery, bottles, cans, wastepaper, cardboard, sawdust piles, and slash remaining from abandoned sawmill operations, and all other waste materials and unsightly debris from an industry.

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

UNFIT STRUCTURE – Any vacant dwelling, building, or part thereof located within 200 feet from any adjacent property boundary or any public or private road which constitutes a hazard to the safety, health, or welfare of the public because it is in disrepair, unsanitary, vermin-infested, or rodent-infested.

§ 27-5 Public nuisance.

A premise 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 collapse partially or completely,
- (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.

§ 27-6 Owner responsibility.

The owner or the occupant of any premises within the Town of Millington shall be responsible for sanitary conditions of the premises occupied by him/her, and it will be unlawful for any person to place, deposit, or voluntarily allow to be placed or deposited on his/her premises any matter which constitutes a nuisance under the terms of this chapter.

§ 27-7 Enforcement

- A. The Enforcement Officer, his designee, or other properly designated law enforcement agent shall be the enforcement officer. Upon receiving a complaint, he/she shall institute an investigation, and if the place or thing complained of is in such a condition as to constitute a nuisance under the terms of this chapter, he/she shall serve a notice in writing on the person, firm, or corporation responsible for the condition requiring his/her/them to abate the same within a time specified in the notice.
- B. It shall be the duty of all law enforcement officers who have jurisdiction in the Town of Millington to enforce this chapter, and it shall further be the duty of the State's Attorney to prosecute violators under this chapter.

§ 27-8 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.

§ 27-9 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.

§ 27-10 Posting of Public Notice.

Upon issuance of a Notice to Vacate and to Repair or Remove, the Enforcement Officer shall cause to be posted, at an 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.

§ 27 -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 Queen Anne's 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 twice in a newspaper of general circulation in the County and
- (3) 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.

§ 27-12 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 with proper notification to the property owner 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.

§ 27-13 Collection of expenses:

If 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 Clerk 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 Clerk and shall be collectible as are taxes in arrears under the provision of Section 9-12 of the code of Kent County and Queen Anne's County.

§ 27-14 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.

§ 27-15 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.

§ 27-16 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.