

ORDINANCE NO. 36

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF MARDELA SPRINGS BY REVOKING CHAPTER 8, ARTICLE 3 IN ITS ENTIRETY AND ADOPTING CHAPTER 174, NUISANCES, OF THE WICOMICO COUNTY CODE IN LIEU THEREOF AND TO PERMIT THE WICOMICO COUNTY HEALTH DEPARTMENT TO ENFORCE IT WITHIN THE TOWN.

WHEREAS, the Commissioners believe the residents of Mardela Springs need and require certain health and safety protections beyond those now in effect; and

WHEREAS, the Wicomico County Health Department has agreed to enforce public safety regulation within the Town if the above referenced sections of the Wicomico County Code are adopted by the Town.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE COMMISSIONERS OF MARDELA SPRINGS:

SECTION ONE: That Charter 8, Article 3, Sections 8-301 through 8-307 of the Code of Ordinances of Mardela Springs be and hereby are revoked and deleted.

SECTION TWO: That the provisions of the Wicomico County Code, Chapter 174, Sections 174-1 through 174-5, inclusive, as amended from time to time, be and hereby are adopted as fully as if set forth herein and shall be known as the Mardela Springs Nuisance Code.

SECTION THREE: That the Wicomico County Health Department is hereby authorized to administer and enforce the Mardela Springs Nuisance Code with the corporate limits of the Town of Mardela Springs, Maryland in the same manner as it is administered and enforced in the County as a whole.

SECTION FOUR: This Ordinance shall be effective from the date of passage.

The above Ordinance was introduced at a regular meeting of the Commissioners of Mardela Springs, Maryland, on the 24th day of September, 1992, was duly published, and was finally passed on the 19th day of October, 1992.

ATTEST:

COMMISSIONERS OF MARDELA SPRINGS

Shirley M. Bailey
Town Clerk

By: L. A. H. Smith
Leland Smith, President

Chapter 174

NUISANCES

- § 174-1. Nuisances enumerated.
- § 174-2. Notice provisions.
- § 174-3. Violations and penalties.
- § 174-4. Severability.
- § 174-5. Abandoned vehicles.

[HISTORY: Adopted by the County Council of the Wicomico County 5-19-1964 as Ord. No. 19; amended in its entirety 6-13-1990 by Bill No. 1990-12. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Housing standards — See Ch. 160.

STATUTORY REFERENCES

Nuisance abatement — See Anno. Code of Md., § 20-306 of the Health-General Article.

§ 174-1. Nuisances enumerated.

The following specific acts, deeds or conditions shall constitute a nuisance within the meaning of this chapter:

- A. The deposit or accumulation of any foul, decaying or abandoned putrescent substance or garbage or trash or rubbish, as defined in § 160-9B of the Wicomico County Code, or other offensive matter in or upon any property, street or highway unless approved by the Health Officer or his properly designated agents.

- B. The overflow of any foul liquids or sewage or the escape of any sewer or sewage gas from any privy, cesspool, seepage pit, septic tank, subsurface tile field or any type of sewage system which is not connected to a municipal sewage system.
- C. Any open cesspool and any type of sewage system not properly maintained which could constitute a danger to health and/or safety.
- D. The disposal or accumulation of dead or dying animals, including but not limited to chickens, hogs, horses, cows, sheep, dogs or cats or any fowl unless the method of removal and disposal is in accordance with County Health Department requirements.
- E. Allowing any plumbing fixture in any location, whether public or privately owned, to be maintained in an unsanitary condition.
- F. The accumulation of manure, human feces, garbage or any form of filth that has not been so treated as to act as a repellent to flies or which creates offensive odors. The presence of fly eggs, maggots or flies will be sufficient evidence that such accumulation has not been properly treated.
- G. A polluted well or spring or the pollution of any well or spring used as a potable water supply.
- H. Any premises that are not provided with a suitable toilet or sanitary privy for all persons working or living therein.
- I. The conveying of garbage, swill, refuse, dead animals, dead fowl or other filthy matter in a manner not approved by the aforementioned health officers through any street or any highway, public or private.
- J. No garbage, offal or other decaying or putrescible matter, either by itself or in connection with ashes or other harmless matter shall be used for the purpose of filling in any lot or other space.

- K. Permitting the presence of rats and rodents and allowing conditions that would permit property to become a rat or rodent harborage.
- L. Maintenance of such poor housekeeping within any building (commercial or residential) that the health of the owner, any occupant, employees or neighbors is or can be endangered.
- M. Maintenance of any such condition which does or could endanger the health of humans through the spreading of such nuisance by streams, surface drainage, air currents, winged life, domestic animals, humans or any other means.
- N. Any building or structure that is in a severe state of disrepair or abandonment, which is in danger of collapse or which is partially burned or a potential danger to the health and/or safety of anyone who would enter the building, as may be determined by the County Health Officer or the Building Inspector.
- O. The existence of any pit or open hole as a result of abandonment of a septic tank, cesspool, seepage pit or other excavation work, which could constitute a danger to health and/or safety.
- P. Abandoned refrigerators, freezers or other appliances that have external latching devices which could constitute a danger to health and/or safety.
- Q. The following acts, deeds and conditions in and upon all developed and vacant lots within a recorded subdivision, mobile home park or an apartment project and any portion of any unsubdivided parcel, tract or lot within two hundred (200) feet thereof and abutting thereon not used for agricultural or forestry purposes are public nuisances:
 - (1) Allowing the uncontrolled growing of weeds higher than twenty-four (24) inches, provided that, after any cutting required by this chapter, the remaining stubble shall be no higher than six (6) inches.
 - (2) The open-lot, not-screened-from-view storage of one (1) or more refrigerators, freezers, appliances or other equip-

ment which could constitute a danger to health and/or safety.

- (3) The open-lot, not-screened-from-view deposit or accumulation of construction materials or other matter, provided that this provision shall not apply where a building permit is currently in full force and effect.

R. Any act, deed, condition, building, trade establishment or manufacturing place which a health officer finds, after investigation, to be injurious to the life, health or safety of any person.

§ 174-2. Notice provisions.

A. The properly designated agent of Wicomico County shall give written notice in accordance with this section to the occupier of the premises on which a nuisance arises or exists. Should the occupier of any such premises be a person, firm, corporation or entity other than the owner, then said notice shall be given to both the owner and occupier. Should the premises be unoccupied, the notice shall be given to the owner. Should the premises be unoccupied and the owner cannot be found, notice shall be posted on the property where the nuisance exists.

B. The notice shall contain the following:

- (1) A brief description of the property containing the nuisance;
- (2) The nature of the nuisance for which action is required and the action required to abate such nuisance;
- (3) A statement requiring abatement of said nuisance within the time specified within the notice, but in no event more than seven (7) days;
- (4) Certification of the enforcing official attesting to the truth of the matters set forth.

C. Abatement of nuisance.

- (1) In investigating any complaint, the properly designated agent of the county may enter upon property on which a

nuisance is alleged to exist at all reasonable times and in a reasonable manner for the purpose of inspecting the premises to determine if a nuisance does, in fact, exist.

- (2) If the owners or occupants fail to correct or cause to be corrected or to maintain the property, as required in the notice, the county is hereby authorized to enter upon the aforesaid property and perform or have performed the necessary removal, maintenance or repairs or take any other means necessary to correct the nuisance violations on the property.
- D. The notice may be served by posting on the property and mailing the same to the occupier and/or owner of the premises whereon such nuisance may exist, or said notice may be served personally upon such owner and/or occupant by the properly designated agent of the County Council.

§ 174-3. Violations and penalties.

- A. Any person, firm, corporation or entity on whom a notice to abate a nuisance has been served in accordance with this chapter and who refuses or neglects to comply with any of the requirements thereof within the time specified in such notice shall be guilty of a civil infraction and shall be subject to a fine of not less than one hundred dollars (\$100.) nor more than one thousand dollars (\$1,000.). Each day that such nuisance shall be permitted to exist after the expiration of the time limited in said notice shall be deemed a separate and additional offense.
- B. Prosecution for a civil infraction under this chapter shall be initiated by the delivery of a citation to any person, firm, corporation or entity alleged to be in violation of this chapter.
 - (1) The citation shall bear a certification of the enforcing official attesting to the truth of the matters set forth in the citation and shall contain the following information:
 - (a) The name and address of the person charged;
 - (b) The nature of the civil infraction;

- (c) The location and time that the civil infraction occurred or was observed;
 - (d) The amount of the fine assessed;
 - (e) The manner, location and time in which the fine may be paid;
 - (f) The person's right to elect to stand trial.
- (2) The fine shall be as specified in the schedule of fines adopted by resolution of the County Council of Wicomico County for the violation charged. The fine is payable by the recipient of the citation to the county within ten (10) calendar days of receipt of the citation.
 - (3) Following delivery of the citation, the procedure followed shall be identical to that set forth in Chapter 225, § 225-110D through I.

C. Assessment of lien.

- (1) In the event that the county is required to abate or correct the nuisance as provided herein, the cost of such abatement or correction shall be assessed to the owner(s) of the land on which the nuisance existed, as well as all subjects of the civil infraction citation. The cost of abatement or correction shall include all actual costs incurred by the county, including but not limited to the costs of all material and labor and any applicable penalties.
- (2) If unpaid, all said costs and applicable penalties assessed shall become a lien against the property and shall be collected in the same manner as real estate taxes by the county.
- (3) In addition to the filing of a tax lien, the county may institute any other legal proceedings to collect the costs incurred by the county to correct any nuisances and applicable penalties.

§ 174-4. Severability.

If any provision of this chapter or the application thereof to any person or entity or circumstances is held invalid by a court of competent jurisdiction, the remainder of this chapter and the application of such provisions to persons or entities or circumstances other than those as to which it is held invalid shall not be affected thereby. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

§ 174-5. Abandoned vehicles. [Added 6-13-1991 by Bill No. 1991-8]

A. Definitions. In general, the following words have the meanings indicated below:

ABANDONED VEHICLE — Any vehicle:

- (1) That is inoperable and left unattended on county property or roads for more than forty-eight (48) hours.
- (2) That has remained illegally on public property for more than forty-eight (48) hours.
- (3) Left on public property without displaying currently valid motor vehicle registration plates where applicable.
- (4) Left on private property without the consent of said real property owner for more than forty-eight (48) hours.
- (5) Stored, parked or left on private property in an inoperable condition or without displaying currently valid motor vehicle registration plates where applicable for more than thirty (30) days.
- (6) Which is not displaying currently valid motor vehicle registration plates and is in either a rusted, wrecked, dismantled, partly dismantled or inoperable condition.

ENCLOSED — Situated within a building or a structure or solid fence at least six (6) feet in height, and/or covered so that view of said vehicle is blocked from adjoining properties and public streets.

INOPERABLE CONDITION — In a condition where the vehicle is not capable of passing all required tests and inspections imposed by the laws of the State of Maryland for a vehicle to be operated on public roads or highways in the state.

OCCUPANT OF REAL PROPERTY — Any person not an owner having a present possessory interest in said real property.

OWNER OF REAL PROPERTY — Any person who is properly designated on the tax records as the owner of said real property by the Department of Assessments and Taxation.

OWNER OF VEHICLE — The current or last known person to have registered or licensed said vehicle, where applicable, and/or any person so named as the owner, buyer or purchaser in a bill of sale for said vehicle.

PERSON — Any individual, firm, partnership, corporation, association or entity of any kind.

VEHICLE — Any device in, on or by which any individual or property is or might be transported or towed on a public or private road, including but not limited to an automobile, truck, bus, van, motorcycle and motor home.

B. Declaration and abatement of abandoned vehicles.

- (1) No person shall maintain, park, store or leave or permit the maintaining, parking, storing or leaving of any abandoned vehicle on private or public property within Wicomico County. The presence of an abandoned vehicle on public or private property in Wicomico County is hereby declared a public nuisance and a danger to the health, safety and welfare of the public and therefore may be abated in the manner set forth herein.
- (2) In the event that an abandoned vehicle is found to exist on any property, the following procedure for its abatement shall be followed:

- (a) Any abandoned vehicle located on public or private property and deemed to be an imminent hazard to the life, safety or health of the public may be removed by the Wicomico County Sheriff's Department without first providing any notice whatsoever to the owner of record of said abandoned vehicle.
- (b) Except as provided above, written notice shall be delivered by a designated official of Wicomico County or sent by registered mail to the owner and/or occupant of the real property upon which an abandoned vehicle is located, requiring that said abandoned vehicle be licensed, repaired, removed or enclosed within thirty (30) days of the date of delivery or mailing of said notice. A copy of such notice shall be delivered or mailed by first class mail, postage prepaid, to the owner of the vehicle, if said vehicle owner is other than an owner or occupant of the real property on which said abandoned vehicle is located, and a copy of such notice shall be posted on the vehicle.
- (c) If the terms and conditions of such notice are not complied with within said thirty-day period, the county shall then have the power and authority to take said abandoned vehicle into custody and physically remove it or cause it to be removed to a storage area maintained or designated by the county where the vehicle shall remain for at least thirty (30) days or until it is redeemed and all costs incurred by the county are paid, whichever occurs first.
- (d) Within seven (7) days after a vehicle is taken in custody, notice shall be sent by registered mail, return receipt requested, to:
 - [1] The last known registered owner of the vehicle.
 - [2] Each secured party, as shown on the records of the State Motor Vehicle Administration, or as otherwise known.
 - [3] The notice shall:

- [a] State that the vehicle has been taken into custody;
 - [b] State the year, make, model and vehicle identification number of said vehicle, if known, and give such other or further description as is reasonably necessary to identify said vehicle;
 - [c] State the name and location of the facility where the vehicle is being held;
 - [d] Inform the owner and secured party of their rights to redeem the vehicle within thirty (30) days from the date of said notice, upon payment of all costs of taking said vehicle into custody, including towing, storage and preservation of the vehicle, and all other costs and applicable fees or fines; and
 - [e] State that the failure of the owner or secured party to exercise the right to redeem the vehicle within the time provided shall be deemed a waiver by such party to all right, title and interest in said vehicle and consent to the sale of said vehicle as herein provided.
- (3) In the event that the identity or address of the last registered owner of the vehicle cannot be determined or it is impossible to determine with reasonable certainty the identity and address of a secured party or the registered mail notice provided herein is returned as undeliverable, then the county shall publish one (1) notice in a newspaper of general circulation in the county containing the information required by Subsection B(2)(d)(3) of this section.
- (4) Any vehicle taken into custody and not redeemed within thirty (30) days after said notice as provided herein shall be conclusively presumed to be abandoned by its registered owner, and all lien holders shall be deemed to

have waived all right, title and interest in the vehicle, and the vehicle may be sold by the county at public sale or disposed of by any other reasonable means which the county may elect. The proceeds of any sale of an abandoned vehicle shall be allocated as follows:

- (a) All expenses for taking custody, towing, storing, preserving and selling the vehicle, including all costs of notices incurred under this section shall be paid first.
 - (b) Any remaining proceeds shall be held for ninety (90) days for the owner of the vehicle and any secured party who may be entitled to the proceeds.
 - (c) If no person entitled to receive any remaining proceeds shall claim them within such ninety-day period, the remaining proceeds shall revert to the general fund of the county.
- (5) Any vehicle taken into custody pursuant to this section may be redeemed at any time after it is taken and prior to the sale of the vehicle by the owner of the vehicle or secured party upon reasonable proof of ownership or of the existence of a security interest and upon furnishing the county sufficient proof that the vehicle will be licensed, repaired or enclosed and by paying to the county all costs incurred, including costs of notices and publication.
- C. In the event that any vehicle is taken into custody pursuant to this section and sold rather than redeemed, all costs incurred of taking custody, towing, storage, preservation and sale, including the cost of all notices, shall be the joint and several liability of the owner of the real property, owner of the vehicle and occupant of the real property, and such expenses shall be a lien on the real property upon which the vehicle was located and collected in the same manner as real estate taxes by the county. Said expenses shall not be a lien on the said real property if the vehicle constitutes an abandoned vehicle pursuant to Subsection A(4) of this section, and the owner of the real property has reported the abandonment to the

appropriate authorities within seven (7) days of the abandonment.

D. Nothing contained in this section shall apply to the following:

- (1) Any vehicle which is enclosed or otherwise positioned on private property so that the access to and view of said vehicle is blocked from adjoining properties and public streets.
- (2) Any real property or the vehicle on the same, if said real property is in a district zoned to permit, and the real property is legally operated as, an automotive dealership or showroom, junkyard, salvage yard, vehicle storage lot or vehicle repair business.
- (3) Any vehicle for which a permit has been issued by the Department pursuant to Subsection E of this section.

E. Permits. The Department of Planning, Zoning and Community Development, pursuant to an application, may grant permits for possession of an abandoned vehicle for a period of up to six (6) months. Permits shall be issued only for an owner or occupant of his property to permit his vehicles for good cause, such as sale, repair or restoration. The cost of the permit shall be set by resolution.

F. Violation. Any person on whom a notice to abate has been served in accordance with this section and who refuses or neglects to comply with any of the requirements thereof within the time specified shall be guilty of a civil infraction and shall be subject to a fine of one hundred dollars (\$100.). Each day that said person is in violation shall be deemed a separate and additional offense. Prosecution for a civil infraction under this section shall be in accordance with § 174-3B of this chapter.