

Town of Milton

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ORDINANCE NO. 2014-09

AN ORDINANCE TO AMEND CHAPTER 152 OF THE MILTON TOWN CODE, ENTITLED "NUISANCES"

WHEREAS, Section 29(a)(1) of the Town Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, the Town Council of Town of Milton has previously found it necessary for the aforementioned purposes to enact an ordinance as Chapter 152 of the Town Code, entitled "Nuisances".

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring, that the following amendments to Chapter 152, with additions shown by underlining and deletions shown by strike-through, are hereby incorporated into the Town Code as follows:

§152-1. Prohibition.

No person shall cause, suffer, permit or maintain the existence of any nuisance upon any property owned, occupied or controlled by him or upon any sidewalk, parking strip, boardwalk or street abutting upon any property owned, occupied, or under his control.

§152-2. Nuisances enumerated.

The following are declared to be nuisances:

- A. Any accumulation of decomposed animal or vegetable matter, garbage, tin cans, ashes, offal, filth, waste or other putrid or unwholesome refuse matter or substance or substances which by itself or in conjunction with any other substances is deleterious to public health, safety or comfort;
- B. Any accumulation of stagnant or impure water;
- C. Any accumulation of wastepaper, waste lumber or other building material, hay, grass, straw, weeds, trash, litter or rubbish of any character;
- D. Any growth of Russian thistle, Canada ~~Canadian~~ thistle, Chinese thistle, white mustard, cocklebur, foxtail, or any other growth of noxious weed vegetation as specified by the State of Delaware Department of Agriculture, and all grass more than ~~40~~ 8 inches in height;

- E. Any brush, bushes, trees, limbs, shrubbery, flowers or other vegetation growth projecting over any sidewalk or street area, whether the same be growth for food, fuel, shade or ornamentation, provided that the branches or limbs of such growths may project over any sidewalk or street area at an elevation of not less than eight feet above the level of the sidewalk or street surface;
- F. Any accumulation of earth, rock, stone or other debris on any sidewalk, parking space strip, street, public right-of-way, boardwalk, or unimproved lot that is not an active construction site or integral to an approved use, and
- G. Any common growth of weeds, underbrush or other growth, trash, debris, tires, litter or rubbish capable of harboring obnoxious insects of any kind such as ticks, mosquitoes and flies, or any vermin-carrying animals rodents, or skunks, ~~where the density of population is normally considered as built up area, or where the concentration of houses exceeds five houses on any one side of a block.~~

§152-3. Notification of violation; time allowed to abate.

- A. Whenever the ~~Board of Health, the Town Clerk, or any member of the police force~~ Code Enforcement Officer or designee is aware of the existence of any nuisance, it shall be his/her duty to serve a written notice on the owner, occupant or person having control of any property whereon such nuisance exists to remove and abate such nuisance within a period of five days.
- B. If ~~any official of the Town named in subsection A shall be~~ the Code Enforcement Officer or designee is unable to serve the notice personally upon the owner, occupant, or person having control of the property upon which or adjoining to which such nuisance exists, the notice may be given by posting the same in some conspicuous place on the property.
- C. Any person so notified who shall fail, neglect or refuse to remove or abate such nuisance within the time specified shall be deemed guilty of a violation of this chapter.

§152-4. Failure to remove nuisance.

If any owner, occupant, or person having control of any property shall fail to remove or abate the nuisance within the time specified in the notice required in §152-3, it shall be the duty of the Code Enforcement Officer or designee who served or posted the notice to file a copy thereof with the Council, together with his/her affidavit to the effect that such notice has been served or posted and setting forth with reasonable detail the nature of the nuisance with respect to which the notice was served or posted.

§152-5. Determination by ~~Council~~ to remove or abate.

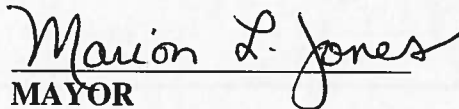
At the next regular monthly meeting of the Council after the receipt of a copy of the notice required by §152-3 and the affidavit of the official serving such, if the Council, either upon their inspection or upon information obtained from the Code Enforcement Officer or designee ~~Board of Health, Town Clerk, or police force~~, shall deem that such nuisance ought to be removed or abated, the Council may direct the Code Enforcement Officer or designee to use the appropriate legal remedy, as determined by the Council, including but not limited to the Town Administrator filing suit for a mandatory injunction, including reimbursement of attorney's fees and costs associated with said suit, or the Code Enforcement Officer or designee effectuating the removal of the nuisance in compliance with Town

purchasing policies. Whenever the Code Enforcement Officer or designee has effectuated the removal of any nuisance pursuant to this chapter, the owner or occupier shall be charged a fee at the relevant rate for property maintenance as established in the currently effective Town of Milton Fee Schedule. That rate may be based upon both the actual and administrative costs. The Fee Schedule shall also set out an interest rate, with interest accruing from the date of removal. Such charge shall be due and payable by the owner or occupier within 30 days of the date of removal. The Town shall send notice and any invoices via regular mail to the owner or occupier.

§152-6. Violations and penalties.

- A. Any person who shall violate the provisions of this chapter shall be fined not less than \$50 nor more than \$99.
- B. For the purpose of this chapter, each day that a violation continues shall be deemed to be a separate offense.
- C. The application of any penalty set forth herein shall not be held to prevent the enforced removal of any prohibited condition or any other legal remedy deemed appropriate by the Council.

I, **MARION JONES**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 6th day of October, 2014, at which a quorum was present and voting throughout and that the same is still in full force and effect.


MAYOR
