

ORDINANCE NO. 17-05

AN ORDINANCE TO AMEND THE MILLVILLE TOWN CODE RELATING TO CHAPTER 54, ENTITLED "DANGEROUS BUILDINGS," AND CHAPTER 111, ENTITLED "PROPERTY MAINTENANCE," AND THE ADOPTION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

WHEREAS, the Town Council of Millville has the power to adopt ordinances for the protection and preservation of Town property, rights and privileges; for the preservation of peace and good order; for securing protection and promotion of health, safety, comfort, convenience, welfare and happiness of the residents of the Town; and

WHEREAS, the Town Council has adopted a Property Maintenance Ordinance for the municipality;

BE IT THEREFORE ORDAINED, by the Town Council for the Town of Millville, Sussex County, Delaware, a majority thereof concurring in Council duly met, that an ordinance codified in Chapter 54 of the Town of Millville Code, entitled "Dangerous Buildings" is hereby stricken, and that the following language hereby be adopted and incorporated into the Town of Millville Code at Chapter 111 with deletions shown by strikethrough and additions shown by underlining as follows:

Chapter 111. Property Maintenance

Article I. Lawn Maintenance

§ 111-1. Grasses, weeds and other vegetative growth.

A. Prohibited growths and accumulations.

(1) No person, being the owner of land or improved premises, shall permit upon such land or improved premises or any sidewalk abutting such land any unregulated growth of grass, weed or other vegetation to grow in excess of eight inches high.

(2) No person, being the owner of land or improved premises, shall permit grasses, weeds or other vegetation to grow upon such land or improved premises or any sidewalk so as to create a nuisance detrimental to adjoining the property or to the health or safety of other persons.

(3) For purposes of this section, "weeds" and "vegetation" do not include ornamental shrubs, trees, grasses, and field crops.

B. Notice to remove; removal by Town.

(1) Notice shall be given pursuant to this section by certified or registered mail, with return receipt requested, to have said growth of grass, noxious weeds or other vegetation being maintained on said property in violation of this chapter cut or otherwise remedied within 10 days from the date of delivery of the written notice, as aforesaid.

(2) If, within 10 days after due notice by the Town of Millville to the owner of land or improved premises, weeds, grasses, or other vegetation in violation of this chapter are not removed, the

Town of Millville may cause such weeds, grasses or other vegetation to be removed, and the cost of such removal shall be charged and collected in accordance with the provisions of this chapter.

(3) The owner of land or improved premises, having in any calendar year received notice pursuant to the provisions of Subsection B(1), shall be deemed to have received notice for the remainder of the year, thereafter, the Town may, without further notice, cut, destroy and remove all unregulated growth lying or located on such owner's property or upon the sidewalk abutting the same, and the cost of such removal shall be charged and collected in accordance with the provisions of this chapter.

§ 111-2. Nuisances.

A. Purpose. It is the purpose of this chapter to eliminate the keeping of detrimental objects and/or materials on premises within the corporate limits of the Town of Millville. The Town Council of the Town of Millville has determined that the conditions hereinafter enumerated and described tend to interfere with the enjoyment of and reduce the value of private property; create fire hazards; create an eyesore; provide a breeding ground for rats, vermin and noxious insects; and contribute to the deterioration of both residential and nonresidential areas of the Town. The Town Council hereby declares the same to be and constitute a public nuisance and declares it to be the purpose of this chapter to promote the health, safety and welfare of the citizens of the Town by prohibiting such nuisances.

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

C. Nuisances enumerated.

(1) The following are declared to be common and public nuisances and subject to abatement as provided in this chapter:

(a) Any accumulation of decomposed animal or vegetable matter, garbage, cans of any material, containers, ashes, offal, filth, waste or other putrid or unwholesome refuse, matter or substance or substances which, by itself or in conjunction with any other substance or substances, is detrimental to public health, safety or comfort; provided, however, that any properly maintained compost pile, occupying less than 20 square feet of ground area, located in the rear half of any lot and not closer than 10 feet to the property line, shall be exempt from this chapter.

(b) Any accumulation of trash, litter, refuse, hay, grass, straw, other yard wastes, wastepaper, waste lumber and building material, or any other waste material or rubbish of any character.

(c) Any common growth of weeds, underbrush or other growth, trash, debris, litter or rubbish capable of harboring obnoxious insects of any kind, such as ticks, mosquitoes and flies, or any vermin-carrying rodents, or skunks, where the density of population is normally considered as a built-up area.

(d) Any brush, bushes, trees, limbs, shrubbery, flowers or other vegetative growth projecting over any sidewalk or street area, whether the same is growth for food, fuel, shade or ornamentation, provided that the branches or limbs of trees may project over any sidewalk or street area at an elevation of not less than 12 feet above the level of the sidewalk or street surface.

(e) Any accumulation of earth, rock, stone or other debris on any sidewalk parking strip or street.

(f) Any damaged, discarded, abandoned or unused appliance, furniture, fixture, equipment, tires, dishes, utensils, glassware, containers, propane tanks or other similar items of personalty on any private property not completely enclosed within a roofed building or on any sidewalk or street surface.

(g) Any damaged, discarded or abandoned motorized machinery, motor vehicle, trailer, boat, sailboard, jet ski or other means of aquatic conveyance that is inoperable, dismantled, wrecked or from which major components have been removed, is in such a state of disrepair as to be incapable of being used or operated in the manner for which it was designed and is situated on private property.

(2) For purposes of this section "waste material" does not include materials accumulated in an orderly fashion within the rear yard for useful purposes such as firewood, and building materials in good condition, topsoil and earth fill, except that the accumulation of such material in a haphazard fashion within five feet of adjacent lines shall be prima facie evidence of waste and a nuisance to adjacent property or to the health or safety of other persons. Building materials, for use in construction where a valid building permit issued by the Town of Millville is in effect, may be stored in an orderly manner within five feet of adjacent property lines.

D. Deposit of waste materials on premises outside all districts. No refuse, rubbish, trash or other waste materials shall be deposited by any person on land or improved premises outside all districts, except that such refuse, rubbish, trash or other waste material shall be placed in a metal or heavy-duty plastic container having a lid or in a plastic bag, said bag to be securely tied sufficient to prevent the same from being scattered or carried away by nature upon adjoining land or improved premises. The owner or possessor of such land or improved premises, any officer of a corporation being the owner or possessor of such land or improved premises in all districts and any agent having the management thereof whose employee or agent violates the provisions of this section shall be deemed to be in violation of the provisions of this chapter.

E. Notification of violation.

(1) Upon a finding by the Town Manager or designee that a property owner or tenant is storing, using or maintaining detrimental objects or materials on premises, the Town of Millville shall send by certified mail, with return receipt requested and postage prepaid, a notice to the owner of record of the property as shown on the tax records of the Town to take whatever steps are necessary to alleviate the nuisance within 10 days following receipt of such notice.

(2) Such notice shall contain the following information:

(a) The nature of the complaint.

(b) Location of the violation.

(c) A statement that the nuisance must be removed within 10 days following the date of receipt of the notice.

(d) A statement of penalties for noncompliance with such notice.

F. Removal by Town.

(1) If, within 10 days after notice thereof by certified mail with return receipt requested and postage prepaid from the Town of Millville to the owner, or possessor of land or improved premises where there is existence of a nuisance, as herein enumerated, nuisances in violation of this chapter are not removed, the Town of Millville may cause such nuisances to be removed.

(2) In the event that such notice is returned to the Town of Millville because of the inability to make delivery thereof, and provided that the same was properly addressed to the owner of record of the property as shown on the tax assessment records of the Town, the Town of Millville is

hereby authorized to cause such nuisance to be abated and to cause the costs of such abatement to be collected from the owner or occupant of the property.

(3) Whenever the Town Manager has effected the removal of any unregulated growth or nuisances, the owner shall be charged the contractor's rate. Whenever the Town Manager has had to pay for its removal pursuant to the provisions of this chapter, the actual costs thereof, together with additional charge of 20% of the actual charge to defray administrative expenses, plus accrued interest at the rate of 6% per annum from the date of completion of the work, if not paid by the owner. Such charges if unpaid shall become a tax lien pursuant to 25 Del. C. Chapter 29.

§ 111-3. Violations and penalties.

Any person, persons, partnerships, corporations, or other entity who shall in any way violate ~~the provisions~~ a provision of this article of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not less than the sum of \$50 and not exceeding the sum of \$1,000 \$99 for each and every offense, together with the costs of prosecution. Each day or part of the separate day a violation continues shall be deemed a separate offense.

Article II. Other Maintenance

§ 111-4. Adoption of Property Maintenance Code.

A certain document, a copy of which is on file in the Town Hall of the Town of Millville, Delaware, being marked and designated as the International Property Maintenance Code, 2012 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the Town of Millville, in the State of Delaware, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Town of Millville are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed § 111-5 of this chapter.

§ 111-5. Additions, insertions and changes.

The following sections are revised as follows:

A. Section 101.1. Insert: "The Town of Millville".

B. Section 103.5. Insert: "The Town of Millville Fee Schedule effective at that time".

C. Section 108.3. Add at the end: "If the owner or a holder of a lien of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week for three successive weeks in a newspaper of general circulation."

D. Section 111.1 through 111.7. Replace with: “Section 111.1 Application for Appeal. Appeals of orders, decisions, or determination made by the Building and/or Code Official relative to the application and interpretation of this code, may proceed as described in Chapter 155, Article XI of the Code of the Town of Millville.”

E. Section 111.8. Replace with: “Section 111.2. Stays of enforcement. Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustment.”

F. Section 112.4. Replace with: “112.4 Failure to Comply. Any person, persons, partnerships, corporations, or other entity who shall in any way violate a provision of this article of this chapter shall, upon conviction thereof, forfeit and pay to the Town of Millville a fine not less than the sum of \$50 and not exceeding the sum of \$99 for each and every offense, together with the costs of prosecution. Each day or part of the separate day a violation continues shall be deemed a separate offense. For repeated offenses within the same calendar year, fines will be \$99 for each continued offense.”

F. Section 302.4. Insert: “eight inches”.

G. Section 304.3. Add at the end: “If the owner of any building fails to post the proper number or numbers within 30 days after the numbers have been duly assigned, the Code Official shall post them and shall charge the cost incurred to the owner of the property.”

H. Section 304.14. Insert: “April 1” to “October 1”.

I. Section 602.3. Insert: “October 1” to “April 30”.

J. Section 602.4. Insert: “October 1” to “April 30”.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon its passage by the Town Council for the Town of Millville.

SYNOPSIS OF ORDINANCE 17-05

This Ordinance amends the Town Code to remove the chapter on “dangerous buildings” and, instead, to provide for Town’s adoption and incorporation by reference of the International Property Maintenance Code, 2012 edition. The Ordinance also incorporates into the International Property Maintenance Code, 2012 edition, a few Town-specific terms in the new § 111-5 of the Town Code.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY, DELAWARE, ON THIS 15th DAY OF FEBRUARY, 2017, AT A VSF ~~PUBLIC MEETING HELD AT TOWN HALL ON~~ DATE, 2017, IN THE TOWN OF MILLVILLE.

SEAL:



ATTEST:

Matthew Thomas Amerling

Robert W. Jordan
MAYOR

Valerie P. [Signature]
SECRETARY