

ORDINANCE NO. _____ of 2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NANTICOKE AMENDING THE CITY OF NANTICOKE NUISANCE ORDINANCE TO INCLUDE ADDITIONAL CONTENTS OF THE NOTICE TO ABATE NUISANCE; ADDING ADDITIONAL METHODS FOR SERVICE OF THE NOTICE TO ABATE; PROVIDING EXPANDED AUTHORITY FOR ENFORCEMENT OF THE ORDINANCE; SPECIFYING THE COSTS WHICH WILL BE SUBJECT TO A LIEN; EXPANDING LEGAL REMEDIES FOR VIOLATIONS OF THE ORDINANCE AND SPECIFYING THE ENABLING AUTHORITY FOR THE ORDINANCE; AND SETTING FORTH A TIERED PENALTY SCHEDULE TO ADDRESS CHRONIC VIOLATORS OF THE ORDINANCE

WHEREAS, the City of Nanticoke currently has a Nuisance Ordinance which is codified in Chapter 341 of the City of Nanticoke Code of Ordinances;

WHEREAS, the City Council of the City of Nanticoke finds that certain amendments are required to this Ordinance in order to address ongoing nuisance issues impacting the City of Nanticoke and its residents.

NOW THEREFORE BE IT ORDAINED AND ENACTED by the City Council of the City of Nanticoke as follows:

1. Legislative Findings: The City Council of the City of Nanticoke finds that there are certain property owners in the City of Nanticoke who are chronic violators of the City of Nanticoke Nuisance Ordinance. These violations negatively impact the general health and safety of the residents of the City of Nanticoke and these violations are found to be unsightly and negatively impact the neighborhoods in our City. The City Council further finds that these violations negatively impact property values in the City. Accordingly, the City Council finds it necessary to impose mandatory increased penalties on nuisance ordinance violators in order to encourage responsible property ownership and maintenance and improve the overall quality of life for the residents of the City.
2. Nuisance Ordinance Amendments: The following Sections of Chapter 341 of the City of Nanticoke Code of Ordinances are hereby amended to read as follows:

§341-4. Notice to Abate

Whenever a nuisance is found to exist within the City, the City's Chief of Police, Code Enforcement Officer or any other duly designated officer of the City shall give 10 days written notice to the owner or occupant of the property upon which such nuisance exists.

§341-5. Contents of Notice to Abate

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- A. A directive to abate the nuisance or to request a hearing within a stated time period.
- B. The location of the nuisance, if the same is stationary.
- C. A description of what constitutes the nuisance.
- D. A statement of acts necessary to abate the nuisance.
- E. A statement that if the nuisance is not abated as directed, and no request for hearing is made within the prescribed time, the City will abate such nuisance and assess the cost thereof against such person or entity and a lien will be placed against the property.
- F. A reference to the Nuisance Ordinance provision which is the subject of the violation.

§341-6. Service of Notice

Proper service of any notice under this chapter shall be by: 1) personal service upon the person (or legal entity) responsible for the nuisance or the owner, authorized property management agent, or occupant of the premises or 2) such service may be made to such persons by registered or certified mail with return receipt requested or 3) posting of the Notice to Abate in a prominent place on the premises where attempts to serve under methods 1 and 2 above are unsuccessful.

§341-7. Abatement by City

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to § 431-6 the City shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

§341-8. Emergency Abatement by City

When in the opinion of the City Police Chief, Code Enforcement Officer or other duly designated officer there is actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the City Official is hereby authorized and empowered, without any notice or hearing, to order and require such premises to be vacated. The City shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

§341-9. City's cost declared lien

Any and all costs incurred by the City in the abatement of a nuisance, including the costs of preparing, filing and satisfying the lien, under the provisions of this chapter, shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided by law.

§341-10. Additional remedies

The City may pursue any and all additional remedies against the responsible person or entity as provided by law.

§341-11. Enabling authority

This chapter is enacted pursuant to the City's powers as a Home Rule Municipality and as otherwise provided by law.

§341-12. Violations and Penalties

Any person or legal entity found to be in violation of this Ordinance shall be subject to the following fines and/or penalties:

- A. Fines. A first violation of this Ordinance shall carry a fine of not less than \$100.00 and not more than \$300.00. A second violation of this Ordinance within two years of the first violation will carry a fine of not less than \$200.00 and not more than \$400.00. A third violation of this Ordinance within two years of the first violation will carry a fine of not less than \$300.00 and not more than \$600.00. A fourth violation of this Ordinance by the same property owner shall carry a fine of not less than \$500.00 and not more than \$1,000.00 regardless as to when the earlier offenses occurred. The City Council finds that this tiered fine schedule is necessary to penalize chronic offenders and protect the general health and welfare of all city residents. These fines will be imposed irrespective of whether or not a nuisance is abated prior to a hearing before the District Justice, if such hearing is requested.
- B. Imprisonment. In addition to the above fines a term of imprisonment may be imposed for a period of time up to 90 days.
- C. Each day that a violation of this Ordinance continues shall constitute a separate offense.

3. Repealer.

All Ordinances or parts of Ordinances of the City of Nanticoke in conflict with this Ordinance to the extent of such conflict, and no further, are hereby repealed.

4. Severability.

The provisions of this Ordinance are severable and if any section, sentence, clause, revision, part or other portion hereof shall be held unconstitutional, illegal, invalid or otherwise ineffective, the validity of the remaining provisions shall be unaffected thereby. It is the intention of the Council of the City of Nanticoke that this Ordinance would have been adopted had such unconstitutional, illegal, invalid, or otherwise ineffective section, sentence clause, or provision, part or other portion not been included herein.

5. Effective Date.

This ordinance shall become effective within thirty (30) days of enactment as provided for in the Home Rule Charter of the City of Nanticoke.

ORDAINED and ENACTED by the CITY COUNCIL OF THE CITY OF NANTICOKE,

this _____ day of _____, 2017.

ATTEST:

CITY OF NANTICOKE:

Mary Beth Cheshinski, City Clerk

William Brown, Council President

APPROVED:

VETO:

Richard Wiaterowski, Mayor

Richard Wiaterowski, Mayor

Date Approved

Date Vetoed