

1 COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2
3 2013 Legislative Session

4 Legislative Day #

5
6 BILL NO. 2013-04

7
8 Introduced by: Charles County Commissioners

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10 Nuisances; Public Health, Safety and Welfare; Nuisance Board
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13 EMERGENCY LEGISLATION
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16 Date introduced: 02 / 26 / 2013
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18 Public Hearing: 03 / 05 / 2013 @ 5:30 p.m.
19

20 Commissioners Action: 03 / 05 / 2013
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22 Commissioner Votes: CQK: Y, RC: Y, KR: Y, DD: Y, BR: Y
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24 Pass/Fail: Pass
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26 Effective Date: 03 / 05 / 2013
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28 Remarks:
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1 COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

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3 2013 Legislative Session

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5 Bill No. 2013-04

6 Chapter No. 85 & 189

7 Introduced by Charles County Commissioners

8 Date of Introduction 01/29/2013

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10 EMERGENCY BILL

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12 AN EMERGENCY ACT concerning

13 Nuisances; Public Health, Safety and Welfare; Nuisance Board.

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15 FOR the purpose of

16 Revising the Applicable County Codes to implement the recommendations of the
17 Property Standards Task Force relating to the processing of nuisance cases.

18
19 BY repealing and enacting, with amendments:

20 Chapter 85- Nuisances; Public Health
21 *Code of Charles County, Maryland*
22 (1994 Edition, 2000 Supplement).

23
24 Chapter 189 – Nuisance Board
25 *Code of Charles County, Maryland*
26 (1994 Edition, 2000 Supplement).

27
28 SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF
29 CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland, read as
30 follows:

31 Chapter 85 – Nuisances; Public Health.

32 SECTION 85-1. Definitions.

33 A. In this chapter the following words have the meanings as indicated.

1 B. “Improved residential property” means a lot or lots containing one or more residential
2 dwellings [units situated within the county's development district as designated in the
3 Charles County Comprehensive Plan].

4 C. “Landowners’ association” means:

- 5 1) A nonprofit association, corporation, or other organization that is:
- 6 I. Comprised of at least two landowners or homeowners in an election
7 district within which the nuisance is located;
 - 8 II. Operated exclusively for the promotion of social welfare and general
9 neighborhood improvement and enhancement; and
 - 10 III. Exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue
11 Code; or
- 12 2) A nonprofit association, corporation, or other organization that is:
- 13 I. Comprised of at least two landowners or homeowners in a contiguous
14 community that is defined by specific geographic boundaries and a
15 substantial portion of which is within an election district within which a
16 nuisance is located;
 - 17 II. Operated for the promotion of the welfare, improvement and
18 enhancement of that community.

19 D. “Owner” means the person vested with legal title to the property.

20 E. “Residential Property” MEANS

- 21 1) [“Residential Property” means:
- 22 (I)] A residentially zoned and developed lot [containing a maximum of
23 2 acres]; OR
 - 24 (II) [Any property that has one of the following residential base zone
25 zoning classifications as provided in the 1992 Charles County
26 Zoning Ordinance:
- 27 1. RL;
 - 28 2. RM;
 - 29 3. RH;
 - 30 4. RV;
 - 31 5. RR;
 - 32 6. PUD; or
 - 33 7. WPC; or

1
2 (III)] Any undeveloped land of 10 acres or less within a clustered
3 development.

4 2) “Residential property” does not include land used for farming.

5 **SECTION 85-2. Conditions constituting public nuisances.**

6 The following conditions on residential property are declared to be unhealthy and
7 unsightly conditions constituting public nuisances that endanger the life, health, safety,
8 and welfare of the entire county by affording a breeding place for or attracting insects,
9 rodents, or reptiles, by failing to exercise reasonable care and maintenance of structural
10 improvements located on improved residential property or by creating a substantial risk
11 of danger to the general public welfare, health, or safety through disease, fire, safety
12 hazards, crime, community degradation, or other means:

- 13 1) Accumulations of scrap, paper, junk, vehicle parts, trash, garbage, leaves, cans,
14 vessels, broken bottles, pieces of china, glass, debris, or other waste matter of any
15 kind;
- 16 2) Grass, noxious weeds, uncultivated vegetable growth, briars, brush and plants that
17 are more than one foot in height; OR
- 18 3) Grease or oil; or
- 19 4) On improved residential property, exterior building disrepair, including broken
20 windows, flaking paint, broken shutters or rainspouts, or other building damage
21 that evidences a general disregard for the reasonable care and maintenance of the
22 improved residential property[.]; OR
- 23 5) ANY NON COMPLIANT CONDITION AS SPECIFIED IN CHAPTER 3
24 OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE
25 (IPMC).

26 **SECTION 85-3. Issuance of complaints; hearing.**

27 A. If [three separate] A landowner from the same election district in the county or a
28 landowners’ association [send] SENDS A written complaint[s] to the County
29 Commissioners or their designee charging that any of the conditions under § 85-2 of this
30 chapter exist on residential property or improved residential property in the same election
31 district or if, in the judgment of the County Commissioners or their designee, any of the
32 conditions under § 85-2 of this chapter on residential property or improved residential
33 property become a nuisance or affect the public health and comfort of residents of the

1 county, the County Commissioners or their designee shall issue a complaint to the owner
2 of the residential property or improved residential property:

- 3 1) Stating the charges alleged; [and]
- 4 2) SETTING A THIRTY (30) DAY DEADLINE FOR ABATEMENT OF
5 ALLEGED CHARGES; AND
- 6 3) Containing a notice that a hearing will be held before the [County Commissioners
7 or their designee] NUISANCE ABATEMENT BOARD not less than four (4)
8 days nor more than THIRTY (30) days after the [serving of the complaint]
9 EXPIRATION OF THE ABATEMENT DEADLINE.

10 B. The owner of the residential property or improved residential property subject to a
11 complaint under Subsection A of this section and other parties in interest to the party
12 shall have the right:

- 13 1) To file an answer to the complaint; and
- 14 2) To appear in person or otherwise and give testimony at the hearing.

15 C. The Maryland Rules of Procedure do not apply and are not controlling in hearings under
16 this section.

17 D. If, after notice and hearing, the [County Commissioners or their designee] NUISANCE
18 ABATEMENT BOARD determines that any of the conditions under § 85-2 of this
19 chapter exist on residential property or improved residential property, [County
20 Commissioners or their designee] THE NUISANCE ABATEMENT BOARD shall:

- 21 1) State in writing the findings of fact that support the determination of the [County
22 Commissioners or their designee] NUISANCE ABATEMENT BOARD; and
- 23 2) Order the owner of the property, within 14 days from the date the owner is
24 notified of the order:
 - 25 I. To cut grass, noxious weeds, vegetable growth, briars, brush, or plants;
 - 26 II. To remove the other conditions or accumulations under §85-2 of this
27 chapter; [or]
 - 28 III. To correct the exterior building disrepair or other building damage; OR
 - 29 IV. TO CORRECT ANY NON COMPLIANT CONDITIONS AS
30 SPECIFIED IN CHAPTER 3 OF THE INTERNATIONAL PROPERTY
31 MAINTENANCE CODE.

32 **SECTION 85-4. Service of Notice.**

33 A. Except as provided in Subsection B of this section, the [County Commissioners or their

1 designee] NUISANCE ABATEMENT BOARD OR THE DEPARTMENT OF
2 PLANNING AND GROWTH MANAGEMENT shall give written notice to the owner
3 of the property that is subject to a complaint or an order issued under § 85-3 of this
4 chapter by:

- 5 1) Serving notice personally on the owner of the property; or
- 6 2) Mailing the notice to the owner of the property by certified mail, return receipt
7 requested, bearing a postmark of the United States Postal Service.

8 B. If the owner of the property does not reside in the county or if the whereabouts of the
9 owner of the property is unknown or cannot be ascertained by the exercise of reasonable
10 diligence and an employee of the county [Division of Inspections] DEPARTMENT OF
11 PLANNING AND GROWTH MANAGEMENT makes an affidavit to that effect, the
12 [County Commissioners or their designee may notify the owner by publishing the
13 complaint or order under § 85-3 of this chapter once a week for two consecutive weeks
14 in the weekly newspaper in the county] COUNTY ATTORNEY MAY NOTIFY THE
15 PARTY THAT PAID THE MOST RECENT TAX BILL ISSUED BY THE
16 COUNTY TREASURER, BY CERTIFIED MAIL, RETURN RECEIPT
17 REQUESTED.

18 C. A copy of the complaint and order under § 85-3 of this chapter shall be posted in a
19 conspicuous place on the property affected by the complaint or order.

20 **SECTION 85-5. Time Limit for compliance; appeals.**

21 A. Except as provided in this section, the owner of the property affected by an order under §
22 85-3 of this chapter shall comply with the terms of the order within:

- 23 1) 14 CALENDAR days from the date on which the owner is notified of the order,
24 as provided under § 85-4A of this chapter[; or
- 25 2) 14 days from the date of the first publication of the notice in a newspaper, as
26 provided under § 85-4B of this chapter].

27 B. Appeals.

- 28 1) Within [10] 14 CALENDAR days from the date of notification under § 85-4 of
29 this chapter, the owner of the property may appeal the order to the County
30 Commissioners or their designee.
- 31 2) If a decision on an appeal under Paragraph (1) of this subsection is issued by the
32 designee of the County Commissioners rather than by the County Commissioners,
33 within [10] 14 CALENDAR days from the date of the decision, the owner may

1 appeal further to the County Commissioners of Charles County.

2 3) The filing of an appeal under Paragraph (1) or (2) of this subsection stays the time
3 period for compliance with an order.

4 4) If an owner of residential property or improved residential property loses an
5 appeal under Paragraph (1) or (2) of this subsection, the owner shall comply with
6 the terms of the order within 14 CALENDAR days of the final appeal decision.

7 **SECTION 85-6. Removal by county; costs.**

8 **A.** If an owner of property affected by an order under § 85-3 of this chapter does not comply
9 with the terms of the order within the time periods provided under § 85-5 of this chapter,
10 immediately thereafter the County Commissioners or their designee may direct the
11 appropriate department:

12 1) To cut or pay for the cutting of the grass, noxious weeds, vegetable growth, briars,
13 brush or plants covered by the order; [or]

14 2) To remove or pay for the removal of the other conditions or accumulations
15 covered by the order; OR

16 3) TO REPAIR OR PAY FOR THE REPAIRS OR REMOVAL OF A NON-
17 COMPLIANT OR UNSAFE STRUCTURE COVERED BY THE ORDER.

18 **B.** The owner of property affected by an on order under § 85-3 of this chapter is responsible
19 for any costs incurred by the department under Subsection A of this Section.

20 **C.** Costs of cutting and removal.

21 1) If the county pays for or takes care of the cutting [or], removal OR REPAIR
22 under Subsection A of the section , the county shall send the owner of the
23 property a bill for the actual cost for the cutting, [or] removal OR REPAIR.

24 2) If the owner of the property does not pay for the cost of cutting [or], removal OR
25 REPAIR under Paragraph (1) of this subsection within 60 days of receiving the
26 bill:

27 a) The cost of cutting or removal shall constitute a lien on the property; and

28 b) The County [Treasurer] shall charge the owner of the property with the
29 cost of [the cutting or removal] IMPLEMENTATION OF THE ORDER,
30 plus interest at the rate of [10%] 12% per year from the date of the [cutting
31 or removal] IMPLEMENTATION OF THE ORDER, on the next regular
32 property tax bill sent to the owner.

33 3) The owner of the property shall pay the charges under Paragraph (2) of this

1 subsection at the same time required for payment of property taxes in the
2 county.

3 **SECTION 85-7. CLERK TO THE NUISANCE ABATEMENT BOARD.**

- 4 A. UNLESS OTHERWISE DIRECTED BY THE BOARD, IT SHALL BE THE DUTY OF
5 THE CLERK TO RECORD ALL PROCEEDINGS CONDUCTED BEFORE THE
6 BOARD, AND THE RECORDED PROCEEDINGS SHALL BECOME THE
7 PROPERTY OF THE BOARD.
- 8 B. THE CLERK SHALL ALSO PRODUCE MINUTES OF EACH HEARING TO BE
9 APPROVED BY THE BOARD. THESE MINUTES SHALL BE AVAILABLE TO
10 THE PUBLIC UPON APPROVAL BY THE BOARD.

11 **SECTION 85-8. TRANSCRIPT OF PROCEEDINGS.**

- 12 A. FURNISHED UPON REQUEST AND PAYMENT: THE CLERK SHALL MAKE AND
13 FURNISH TO ANY PERSON, UPON REQUEST, A TRANSCRIPT OF ANY PART
14 OF SAID NOTES, UPON THE PAYMENT BY SUCH PARTY OF THE EXPENSES
15 OF SUCH TRANSCRIPT. ALL REQUESTS FOR A TRANSCRIPT SHALL BE
16 MADE IN WRITING. WHEN ANY PERSON ORDERS A TYPWRITTEN
17 TRANSCRIPT OF THE PROCEEDINGS AS PROVIDED ABOVE, HE OR SHE
18 SHALL BE DEEMED TO HAVE PERSONALLY GUARANTEED THE PAYMENT
19 FOR THE COST OF THE TRANSCRIPT. THE CLERK SHALL REQUIRE A
20 REASONABLE DEPOSIT BEFORE PROCEEDING WITH THE TRANSCRIPTION.

21 **SECTION 85-9. PENALTY FEE.**

- 22 A. IF AN OWNER OF A PROPERTY AFFECTED BY AN ORDER UNDER § 85-3 OF
23 THIS CHAPTER, FAILS TO IMPLEMENT SAID ORDER AND THE COUNTY
24 INCURS COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE ORDER.
25 THEN THE PROPERTY OWNER SHALL PAY A PENALTY FEE IN ADDITION TO
26 ANY COSTS ASSOCIATED UNDER § 85-6 OF THIS CHAPTER. THIS PENALTY
27 FEE SHALL BE SET BY THE CHARLES COUNTY COMMISSIONERS AS IT
28 APPEARS IN THE CHARLES COUNTY APPROVED FEES AND CHARGES
29 SCHEDULE.
- 30 B. IF A PROPERTY IS ISSUED MORE THAN ONE ORDER UNDER § 85-3 OF THIS
31 CHAPTER WITHIN A TWELVE (12) MONTH PERIOD. THEN THE PROPERTY
32 OWNER SHALL BE CITED AND PAY A PENALTY FEE IN ADDITION TO ANY
33 COSTS ASSOCIATED UNDER § 85-6 OF THIS CHAPTER. THIS PENALTY FEE

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SHALL BE SET BY THE CHARLES COUNTY COMMISSIONERS AS IT APPEARS
IN THE CHARLES COUNTY APPROVED FEES AND CHARGES SCHEDULE.

SECTION 2. BE IT FURTHER ENACTED that Chapter 189 of the Charles County Code be
and the same is hereby repealed in its entirety.

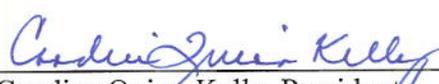
[Chapter 189 - Nuisance Board]

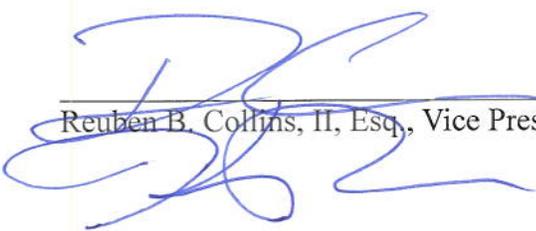
SECTION 3. BE IT FURTHER ENACTED, that an emergency is hereby declared to exist
affecting the public health, safety or welfare of the citizens of Charles County, said emergency
being the need to expand the procedures available to the County for nuisance abatements, and
addressing unsafe structures, and neighborhood blight.

SECTION 4. BE IT FURTHER ENACTED, that this Act shall take effect on the day it
becomes law.

Adopted this 5th day of March, 2013.

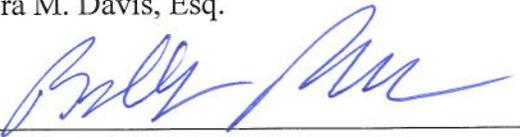
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CHARLES COUNTY, MARYLAND

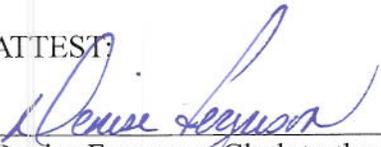

Candice Quinn Kelly, President


Reuben B. Collins, II, Esq., Vice President

Ken Robinson


Debra M. Davis, Esq.


Bobby Rucci

ATTEST:

Denise Ferguson, Clerk to the Commissioners

NOTE: CAPITALS indicate language added to existing law.
[Brackets] indicate language deleted from existing law.