

For:

Introduction 2/4/19  
Public Hearing N/A  
Adoption \_\_\_\_\_

**THE TOWN OF MOUNT AIRY, MARYLAND**

**ORDINANCE NO. 2019-1**

**AN ORDINANCE TO AMEND PART II  
OF THE CODE OF THE TOWN OF MOUNT AIRY  
ENTITLED "GENERAL LEGISLATION",  
CHAPTER 76 ENTITLED "NUISANCES", SECTION 76-3 ENTITLED "PARTIAL  
ENUMERATION OF NUISANCES"; CHAPTER 85 ENTITLED "PROPERTY  
MAINTENANCE", SECTION 85-5 ENTITLED "REFUSE IN THE STREETS"; AND  
CHAPTER 96 ENTITLED "STREETS AND SIDEWALKS", ARTICLE III ENTITLED  
"STREETS AND SIDEWALKS GENERALLY", SECTION 96-13 ENTITLED "DIRT  
AND TRASH ON HIGHWAYS"**

**WHEREAS**, the Town has recently experienced the tracking, blowing or depositing of lawn clippings and other yard waste onto the sidewalks and public streets of the Town, including into gutters, without being removed by those who tracked, blew or deposited such clippings or yard waste and/or by neighboring owners of property; and

**WHEREAS**, the Town Council believes it in the best interests of the Town and its residents, and for the protection of the Town's storm sewer system, to make clear that depositing clippings and yard waste without their prompt removal shall be a municipal infraction.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF MOUNT AIRY:**

Section 1. That Part II, Chapter 76 to the Town Code, Section 76-3 of the Code as follows:

**§76-3. Partial enumeration of nuisances.**

- A. The following acts when committed or conditions when existing within the Town of Mount Airy are hereby defined and declared to be nuisances:
- (1) An act done or committed or aided or assisted to be done or committed by any person or any substance, being or thing kept, maintained, placed or found in or upon any public or private place which is injurious or dangerous to the public health or safety.

- (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public, including but not limited to the emission of dust, fumes, gas, smoke, odor, noise, vibration or other noxious disturbances.
- (3) Creation of a noise disturbance, including but not limited to a noise disturbance defined under Chapter 82 of this Code and noise which is unhealthy, injurious or annoying to the public.
- (4) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (5) All ponds or pools of stagnant water and all foul or dirty water or liquid when discharged through any drain, pipe or spout or thrown into or upon any street, public place or lot to the injury or annoyance of the public.
- (6) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place which in any way may cause injury or annoyance of the public.
- (7) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.
- (8) All stables, cattle yards, hog, sheep or cow pens or yards for poultry permitted by the owner thereof or the person responsible therefor to be in such a condition as to become offensive, annoying or injurious to the public.
- (9) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.
- (10) All abandoned or discarded iceboxes, refrigerators or freezer cabinets which are uncrated and have a door or lock which cannot be released for opening from the inside thereof and which are placed outside of a building or dwelling in a place accessible to children.

(11) A disorderly property defined to mean a property where, within a three-hundred-sixty-five-day period, two or more criminal arrests, criminal citations, criminal indictments, criminal warrants, criminal summonses, or civil citations have occurred or been issued, arising out of separate and distinct facts and circumstances, as defined by the statutes of the State of Maryland, ordinances of the Town or of the county in which the property is situated which occur on the property, within any building, house or structure thereon, within the property's curtilage or otherwise on other property in close proximity to the property where it can be established that the conduct giving rise to the criminal or civil action emanated from or is connected to the property.

(12) Any violation of Chapter 85 of the Town Code regarding Property Maintenance.

~~(12)~~ (13) Any other act or condition which is defined elsewhere in this Code to be a nuisance.

- B. The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the Town of Mount Airy is hereby declared to constitute a nuisance.
- C. Persons in possession and/or legal owners of property creating nuisances described in this section shall be held legally responsible for their creation, continuation and shall be required to comply with all orders and/or citations issued under this section if duly notified as required herein.

Section 2. That Part II, Chapter 85 of the Town Code by repealing and reenacting with changes Section 85-5 of the Code as follows:

**§85-5. Refuse in streets.**

It shall be unlawful for any person to place, cast, blow, track, deposit or throw any ashes, filth or rubbish of any description, including any grass clippings or other yard waste, on any of the sidewalks, streets, lanes or alleys of Mount Airy, provided that ashes or rubbish may be deposited in such streets, lanes or alleys to be hauled away within 24 hours.

Section 3. That Part II, Chapter 96, Article III of the Town Code by repealing and reenacting with changes Section 96-13 of the Code as follows:

**§96-13. Dirt and trash on highways.**

- A. No person engaged in excavating, repairs to structures or grounds or construction or having charge or control of excavation, repairs to structures or grounds or construction, or who may be engaged in or have charge or control of conveying material to or from excavations, repairs to structures or grounds or construction, shall deposit or permit to be deposited, in any manner, upon the surface of any street, alley, avenue, highway, footway, sidewalk, parking or other public space within the corporate limits of the Town of Mount Airy, either by placing, spilling, dropping or tracking from wheels of vehicles or from the feet of animals, or otherwise, any earth, clay, mud, sand, gravel or other material. If any such deposit occurs, every person whose duty it is under this section to prevent such deposit shall promptly remove the same. All macadamized or broken stone roadways adjacent to excavations or traversed by vehicles either in the process of conveying material from an excavation or in returning from the place of deposit to place of excavation shall be covered with planking so far as may be required to prevent any mud, earth, clay or other material from the excavation or from the place of deposit from reaching the surface of such roadway.
- B. No one being the owner, driver, manager or conductor of any cart or other vehicle shall carry or convey or cause to be carried or conveyed in such vehicle any coal, earth, sand, gravel, broken stone, dirt, ashes, paper and other rubbish, or any loose fluid or offensive articles or matter, or any articles whatsoever within the corporate limits of said Town of Mount Airy so that the same shall or may be scattered, dropped, let fall, blown or spilled therefrom; and all vehicles conveying combustible refuse or foul, dusty or offensive matter of any sort shall have tight bodies and be closely and securely covered. All vehicles conveying wastepaper and wastepaper products, baled, sacked or otherwise, shall be closely and securely covered.
- C. Owners of lots abutting upon streets, avenues or alleys or upon public parking or other public space, in the Town and which are above grade, shall protect such lots so as to prevent dirt, sand or gravel or any bushes, trees or like thing from falling or being washed upon the sidewalks, streets, alleyways or other public space adjacent to the same.
- D. Owners or occupants of lots abutting upon streets or sidewalks, and those undertaking lawn or yard clean up, lawn cutting or maintenance on such lots, shall refrain from blowing, tracking or otherwise depositing grass clippings or other yard waste onto sidewalks, roads or gutters without removing same within at least 24 hours.

BE IT ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that

this Ordinance shall take effect retroactively to the \_\_\_\_ day of \_\_\_\_\_, 2019.

Introduced this 4th day of February, 2019.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

ATTEST:

\_\_\_\_\_  
Jason Poirier, Secretary

\_\_\_\_\_  
Peter R. Helt, President of the Town Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Jason Poirier, Secretary

\_\_\_\_\_  
Patrick T. Rockinberg, Mayor

REVIEWED AND APPROVED AS TO LEGAL FORM AND SUFFICIENCY.

This \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Thomas V. McCarron, Town Attorney