

**CITY OF MILLVILLE
NOTICE OF INTENTION**

Notice is hereby given that an Ordinance a copy of which is hereinafter set out, was introduced before the Board of Commissioners of the City of Millville and passed its first reading on November 3, 2014 and that said Ordinance will be considered by said Board on final passage on November 17, 2014 at 6:30 P.M. in the Richard C. McCarthy Commission Chamber, City Hall, Millville, New Jersey, when and where all persons interested therein will be given ample opportunity to be heard for or against the adoption of said Ordinance.

An Ordinance amending the various articles of Chapter 11 of the Municipal Code of the City of Millville

BUREAU OF PERMITS AND INSPECTIONS

Article I. Administration

§ 11-4 Notice of violation and order, shall be amended in Sections A, B and D as follows:

A. The term “person” or “person responsible” shall mean the owner of the property and the tenant in possession, whether it is a natural person, corporation, limited-liability company (LLC, partnership, or other legal entity. If the property is abandoned, the first mortgage holder shall also be a “person responsible” in addition to the owner.

B. Whenever a code official or inspector has reasonable grounds to believe that there is a violation of the regulations contained herein, a notice of violation and an order for compliance shall be issued to the persons responsible.

D. The notice of violation and order for compliance shall be deemed to be properly served if a copy thereof is:

(1) Delivered personally to the person responsible, or his/her spouse, agent, power of attorney or person residing therein aged 14 years or older; or

(2) Mailed by regular mail to the last known address of the person responsible; or

(3) Posted in a conspicuous place on the lands or structure affected by the notice and order.

§ 11-6 Failure to comply with Order shall be amended in subparagraphs B and D as follows:

B. Any person failing to comply with an order for compliance within the time specified therein shall be prosecuted in the Municipal Court or at a hearing in front of the Commissioner at the discretion of the Construction Official.

D. The total cost incurred, including an administrative fee of \$250.00 for a first offense, and \$500.00 for each subsequent offense, shall be certified by the Construction Official to the City Clerk and to the Municipal Tax Collector, who shall record the certification forthwith. Thereafter, the governing body of the Municipality may adopt a resolution affirming the assessment of the lien against the subject property and, if adopted, the City Clerk shall file a copy of the resolution with the Municipal Tax Collector who shall record it and collect the moneys owed in the same manner as property taxes are assessed and collected.

ARTICLE II: Abandoned Properties

§ 11-13 Definitions.

The following definition of representatives shall be added to § 11-13

REPRESENTATIVE – the individual registered with the City as the Representative of the property owner. If the property owner is an LLC or a Corporation, the Registered Agent, President or Managing Partner of same are also “Representatives” of the owner upon whom service may be made.

§ 11-15 Notice requirements under the act shall be amended in subsection D as follows:

D. The public officer, in consultation with the tax collector, shall also mail a notice by regular mail to a mortgagee, servicing organization, lienholder or property tax processing organization that receives a duplicate copy of the tax bill pursuant to State Law.

ARTICLE III: Dangerous, Damaged & Unfit Structures

§11-23 Definitions, shall be amended to add the following definition:

REPRESENTATIVE – the individual registered with the City as the Representative of the property owner. If the property owner is an LLC or a Corporation, the Registered Agent, President or Managing Partner of same are also “Representatives” of the owner upon whom service may be made.

§11-24 Complaint and Notice of Hearing, shall be amended in subsections A&B as follows:

A. The complaint and notice of hearing shall be served upon the property owner or the property owner’s representative and all parties in interest. Service shall be made personally or by regular and certified mail, return receipt requested, by mailing the complaint and notice of hearing to their last known addresses. Service on either the property owner or the property owner’s representative shall be sufficient service; service on both shall not be required.

B. If the whereabouts of both the property owner and the property owner’s representative are unknown and cannot be ascertained in the exercise of reasonable diligence, or if the whereabouts of a party in interest cannot be ascertained in the exercise of reasonable diligence, then service of the pleadings shall be made on such person as follows: 1) by publishing the complaint and notice of hearing once in the official newspaper of the City; 2) by posting the complaint and notice of hearing in a conspicuous place on the building affected by the complaint; and 3) by recording the complaint and notice of hearing in the Cumberland County Clerk’s Office.

§11-25 Hearing and order is amended in subsection D as follows:

D. If the whereabouts of both the property owner and the property owner’s representative is unknown and cannot be ascertained in the exercise of reasonable diligence, or if any party in interest is unknown and cannot be ascertained in the exercise of reasonable diligence, then service of the order shall be made on such person as follows: 1) by publishing the order once in the official newspaper of the City; 2) by posting the order in a conspicuous place on the building affected by the order; and 3) by recording the order in the Cumberland County Clerk’s Office.

ARTICLE IV: Nuisance Properties

§11-33 Definitions – shall have the following definition added:

REPRESENTATIVE - the individual registered with the City as the Representative of the property owner. If the property owner is an LLC or a Corporation, the Registered Agent, President or Managing Partner of same are also “Representatives” of the owner upon whom service may be made.

ARTICLE V: Nuisance Properties – Excessive Services

§11-44 Public nuisance criteria shall be amended as follows:

I. Failure to exterminate for bed bugs, mice, rats, termites, roaches, crickets, carpenter ants or other vermin after existence of same is apparent.

J. Creation through neglect or inducement conditions that create an environment conducive to bed bugs, mice, rats, termites, roaches, crickets, carpenter ants or other vermin.

ARTICLE VII: Removal and disposal of harmful matter

§11-64 Regulations shall be amended in subsection E as follows:

The owner and tenant in possession of any dwelling or lands shall be the person responsible for compliance with these regulations, or if the property is in the process of being foreclosed or has been abandoned, the mortgagee shall also be a person responsible for compliance with these regulations.

§ 11-67. Assessment of lien shall be amended as follows:

A. In all cases where the harmful matter and vegetation has been removed and destroyed under the direction of the public officer, at the expense of the municipality, the public officer shall certify the cost thereof to the governing body of the municipality plus an administrative fee of \$250.00 for a first offense and \$500.00 for each subsequent offense.

§ 11-68 Violations and penalties shall be amended as follows:

The Court shall fine all responsible persons found guilty of failure to comply with the notice of violation and order or found guilty of other regulations contained in this article shall be fined by the Court a minimum of \$200.00 and a maximum of \$1,000.00 for the initial offense.

§11-69, which was previously reserved, shall be added to the code to read as follows:

Each day that a violation continues, after a notice of violation and an order for correction has been issued and the time for correction has expired, shall constitute a separate violation. The Court shall impose a minimum fine of \$25.00 for each additional day that the violation continues and maximum of \$1,000.00 for each additional day that the violation continues after notice of violation and an order for correction has been issued, and the time for correction has expired.

ARTICLE VIII: Residential Rental Properties

§ 11-79 Administrative proceedings shall be amended in Subsection B and D as follows:

B. Complaint and Notice of Hearing. Whenever the public officer shall determine that any property is being occupied in violation of this section, the public officer shall have the option of prosecuting the matter in the municipal court and proceeding in accordance with section 11-6 or prosecuting the matter administratively.

If the officer proceeds in municipal court the officer shall file a report with the municipal court clerk which identifies the property, property owner, the tenant and the nature of the violations. If the public officer decides to proceed administratively, the public officer shall file a report with the City Attorney which identifies the property, property owner, the tenant and the nature of the violations. Nothing herein shall be deemed to prevent the public officer from proceeding in both forums if necessary to seek a remedy in one forum that may be unavailable in the other forum.

(1) Upon receipt of the report, the City Attorney shall prepare a complaint setting for the location of the property and the remedy sought, and a notice of hearing setting forth the date, time and place of the hearing.

(2) The Complaint and notice of hearing shall be served upon the property owner or resident agent and tenant. Service shall be made personally or by regular and certified mail, return receipt requested, by mailing the complaint and notice of hearing to the last known address of such person.

(3) If the whereabouts of the property owner, resident agent or tenant is unknown and cannot be ascertained in the exercise of reasonable diligence, then service of the pleadings on such person shall be made as follows: by publishing the complaint and notice of hearing once in the official newspaper of the municipality and by posting the complaint and notice of hearing in a conspicuous place on the building affected by the complaint.

(4) The hearing shall be scheduled before the governing body of the municipality or a designated hearing officer at a place and time indicated in the notice of hearing, which time shall be fixed not less than 20 days from the date of service of the complaint and notice of hearing.

D. Assessment of fees. The governing body or the hearing officer shall enter an order against the property owner requiring the payment of all inspection fees and registration fees owed to the municipality, and the cost of litigation when the municipality is the prevailing party in the litigation. The costs of litigation shall include an administrative fee of \$250.00 for a first offense and \$500.00 for second and subsequent offenses; the cost of legal services of \$750.00; expert witness fees; search fees; and advertising expenses incurred in connection with the litigation.

ARTICLE XV: Graffiti

§11-111 Regulations shall be amended to add subsection C as follows:

C. If a property is in the process of being foreclosed or has been abandoned, the mortgagee shall be the person responsible to remove the graffiti or paint over it within 20 days of the graffiti being placed on the property.

§ 11-112 Violations and penalties shall be repealed as to subsections A, B and C. Substituted therefore shall be subsections A, B, C and D as follows:

A. Any person who shall violate subsection A of 11-111 of this Ordinance by placing graffiti upon any private or public building, structure or location shall be fined not less than \$200.00 nor greater than \$1,000.00 for each offense. Additionally, the Municipal Court Judge may impose a period of community service not exceeding 90 days.

Further, any person convicted of placing graffiti upon any property shall, in addition to the penalties referred to herein, be responsible for restitution to the property owner for the cost of removing or painting over the graffiti.

B. Where graffiti exists on any private or commercially owned property, and the property owner or responsible person shall fail to remove it or paint over it within 20 days of the graffiti's being placed on said property, said owner or responsible person shall be subject to a fine of no less than \$200.00 nor more than \$1,000.00 at the discretion of the Municipal Court Judge.

C. For second and subsequent offenses of Section 11-111 A or B the Court shall impose a fine of not less \$500.00 nor exceeding \$1,000.00 and impose a fine of up to \$250.00 for each day of continuing violation. Additionally, the Court may impose imprisonment in the County Jail for not more than 90 days, or a period of community service not exceeding 90 days, or any combination thereof.

D. If any privately or commercially owned property shall not have graffiti removed from it or painted over within 20 days of the graffiti's being placed thereon, the City may remove same. Thereafter, the Construction Official may file a notice of lien against the property for all costs incurred together with an administrative fee of \$250.00 for a first offense and \$500.00 for each subsequent offense by certifying same to the City Clerk and to the Municipal Tax Collector, who shall record the Certification. Thereafter, the governing body of the municipality may adopt a resolution affirming the assessment of the lien against the subject property and, if adopted, the City shall file a copy of the resolution with the Municipal Tax Collector who shall record it and collect the moneys owed in the same manner as property taxes and assessed and collected.

ARTICLE XVIII: Foreclosure Properties

§ 11-134 Registration shall be amended in subsection B and C as follows:

B. The registration form shall include the full name and contact information of an individual located within the State of New Jersey who is authorized to accept service on behalf of the creditor. The registration form shall be accompanied with a registration fee of \$250.00 for each dwelling for the first year and \$500.00 for each dwelling in each subsequent year. Registration forms shall be available at the Bureau of Permits and Inspections. Registrants shall mail the completed and executed form to the Bureau along with a check made payable to the municipality. A registration form is required for each house, commercial property, townhouse, condominium or duplex that it the subject of a foreclosure action.

C. The cost of inspections is included in the fee charged above.

§ 11-135 Responsible party, subsections A and B are repealed. Substituted therefore are the following as § 11-135 A (1) and (2):

A. The homeowner or business owner in possession of the subject property is the responsible party for the upkeep of the property. However,

1) If a residential or commercial property becomes vacant at any point subsequent to the filing of a summons and complaint but prior to vesting of title in the creditor/lender, the creditor/lender is the responsible party for the upkeep of the property. This includes property to abate a nuisance and correct violations of the municipal property maintenance code; and

2) If a residential or commercial property becomes vacant, the creditor/lender shall be the responsible party 30 days after receiving notice from the municipality that the property has become vacant. Said notice must be sent to the creditor/lender by certified mail. If the certified mail has not been able to be delivered, the 30 days shall run from the time of the property's being posted in a conspicuous place or a notice's being forwarded by regular mail to the last known address of the creditor as noted in the records of the Tax Collector.

§ 11-138 Violations and penalties shall be amended as follows:

C. Any person who shall violate the regulations contained herein shall be subject to a fine of not less than \$500 nor more than \$1000 for each offense.

D. Repeat offenders shall be subject to a fine of not less than \$1,000 nor more than \$2,000. Repeat offenders may also be sentenced to a term of community service not extending 90 days and/or 30 days in the Cumberland County Jail.

Repealer. All Ordinances of the City of Millville which are in conflict with the provisions contained in this Ordinance are hereby repealed upon the adoption of this Ordinance.

Severability. If any part or parts of this Ordinance are held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

Effective date. This Ordinance shall take effect after final approval and publication as required by law.

A copy of this Ordinance can be obtained without cost by any member of the general public at the City Clerk's Office, 3rd floor, Municipal Building, 12 S. High Street, Millville, NJ 08332 during Monday through Friday 8:30 am to 4:30 pm or on the City of Millville website at www.millvillenj.gov

Dated: November 7, 2014

By Order of the Board of Commissioners
Susan G. Robostello, City Clerk/Administrator