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Chapter 66**NUISANCES**

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**[HISTORY: Adopted by the Council of the Town of Middleburg 6-10-82.
Amendments noted where applicable.]**

GENERAL REFERENCES

Building, plumbing and electrical - See Ch. 36.

Fire protection and prevention - See Ch. 46.

§ 66-1. Purpose.

The purpose of this chapter is to promote the public health, safety and welfare of residents of the town and to provide for the removal and abatement of unhealthy, noxious, dangerous and hazardous substances and conditions, at private expense.

§ 66-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EMERGENCY SITUATION - Any situation involving a hazardous condition or nuisance wherein there exists a reasonable possibility of imminent or immediate danger or harm to the public health, safety or welfare or to any individual.

HAZARDOUS CONDITION - Any condition in which it is reasonably foreseeable that a hazardous substance, as defined in this chapter, may be stored, handled, transported or used in such a manner as to proximately cause substantial personal injury or substantial illness as a result of such reasonably foreseeable handling, transportation use or storage.

HAZARDOUS SUBSTANCE - Includes any toxic, radioactive, flammable, corrosive or otherwise dangerous chemical, poison gas,

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element, mineral or other substance or combination or mixture of substances.

NUISANCE - Anything unwholesome, dangerous, offensive or unhealthy, which constitutes a menace to the health and safety of the public, or any structure which, due to a structural defect or dilapidation, has become dangerous to life or property.

OWNER - Includes both the owner or part owner of property on which the hazardous condition or nuisance is located, and the occupant or lessee of such property if the property is leased, where such occupant or lessee is responsible, in whole or in part, for creating or maintaining the hazardous condition or nuisance. The legal owner of such property shall, in all events, be responsible for the cost of removing, repairing, abating or obviating such hazard or nuisance and, where applicable, a lessee or occupant shall share mutual responsibility with the owner for such costs.

PERSON - Includes any individual, partnership, firm or corporation.

§ 66-3. Abatement.

- A. Notice and hearing. [**Amended 7-8-82**]
- (1) Upon information and **determination that a person is creating, maintaining or permitting to exist on any property owned or occupied by such person any nuisance** or hazardous condition, as defined in this chapter, the Town Administrator shall issue written notice of the specific nature of the nuisance or hazardous condition to the owner or occupant of such property. Such written notice shall contain an order requiring such persons, within a reasonable time, to abate, remove, repair or obviate the hazardous condition or nuisance, such notice and order to be sent by certified mail to the last known post office address of the owner or occupant.
 - (2) Any person so notified shall have the right to request a hearing before the Town Council by sending a written request for such hearing to the Administrator within five (5) days of the receipt of the notice of the nuisance or hazardous condition. The hearing shall be held as soon as possible after receipt of the written request therefor, but not later than the next regularly scheduled Council meeting. At such hearing, the Council shall determine whether, in fact, a nuisance or hazardous condition exists, and if so, whether the person who has received the notice and order is responsible, in whole or in part, under this chapter, for the abatement of such condition. Such person may present relevant evidence, may call

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witnesses and may be represented by counsel at such hearing. The Administrator shall notify such owner of the Council's findings and decision in writing.

- (3) In the event of an emergency situation, such hearing may be held following the abatement, removal or repair of the emergency situation.
- B. Time to correct or eliminate violation. The time within which the owner or occupant must abate, repair, remove or obviate the nuisance or hazardous condition shall include a reasonable period necessary to permit correction and elimination of the violation, taking into account the actual time required for completion of the work, as well as the extent of hazard to the public caused by the nuisance or hazardous condition.
- C. Summary abatement. In addition to the other remedies prescribed by this chapter, if it is determined that a hazardous condition or nuisance is likely to have an immediate adverse effect upon public health or safety, then the Town Administrator may order such condition to be summarily abated by the town in a prudent manner.

§ 66-4. Failure to comply; costs of repair, removal or abatement by town.

- A. If an owner or occupant of property notified under §§ 66-3 fails, refuses or neglects to comply with the notice and order within the time allowed, the Administrator may cause the nuisance, hazardous condition or emergency situation to be promptly abated; obviated, removed or repaired in a reasonably prudent and economical manner, at town expense. The Administrator may, with Council approval, contract with any private person to obviate or abate such nuisance, hazardous condition or emergency situation.
- B. If the nuisance, hazardous condition or emergency situation is repaired, removed, obviated or abated at town expense, all such costs and expenses shall be charged to and paid by the owner of the property, and may be collected by the town as taxes and levies are collected. Every charge authorized by this subsection with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property and such lien shall be recorded in the judgment lien docket book in the Clerk's office of the Circuit Court.

§ 66-5. Unknown or unlocated owners.

If the Town Administrator, after a reasonable search, is unable to identify or ascertain the whereabouts of the lawful owner of property on which a violation exists, and after the notice and order required by §§ 66-3 have been sent to the last known post

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office address of such owner, if known, the town may undertake to repair or remove such violation after giving notice by publication once each week for two (2) weeks in a newspaper of general circulation in the area where such property is located.

§ 66-6. Effect on other laws.

The remedies, procedures and causes of action provided for in this chapter shall be in addition to and not in lieu of all other remedies, procedures and causes of action provided for by statute or general law.