

Subject: To Codify Chapter 248 of the Code of St. Mary's County, Maryland, to Establish Property Maintenance Standards and to Provide for the Removal of Nuisances

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## ORDINANCE

### TO CODIFY CHAPTER 248 OF THE CODE OF ST. MARY'S COUNTY, MARYLAND, TO ESTABLISH PROPERTY MAINTENANCE STANDARDS AND TO PROVIDE FOR THE REMOVAL OF NUISANCES

#### RECITALS

**WHEREAS**, pursuant to Chapter 93 of the *Code of St. Mary's County, Maryland*, the Commissioners of St. Mary's County are authorized to adopt standards for the maintenance of property and procedures for the removal of nuisances; and

**WHEREAS**, a notice of a public hearing was advertised on November 1, 2013 and November 8, 2013 in *The Enterprise*, a newspaper of general circulation in St. Mary's County, and a public hearing was held on November 19, 2013 to receive public comment and consider the codification of Chapter 248 of the *Code of St. Mary's County, Maryland*, to establish property maintenance standards and to provide for the removal of nuisances; and

**WHEREAS**, the Board of County Commissioners for St. Mary's County, Maryland, finds that it is in the best interest of the health, safety and welfare of the citizens of St. Mary's County to codify Chapter 248 of the *Code of St. Mary's County, Maryland*, to establish property maintenance standards and to provide for the removal of nuisances,

**NOW, THEREFORE, BE IT ORDAINED** by the Commissioners for St. Mary's County, pursuant to Chapter 93 of the *Code of St. Mary's County, Maryland*, that:

**SECTION I.** Chapter 248 of the *Code of St. Mary's County, Maryland*, is adopted to read as follows:

**Section 248-1. Creation or Maintenance of Blight Prohibited.**

Blight, as defined herein, is declared to be a nuisance. No owner of real property shall allow or cause the existence, creation, maintenance of any condition that constitutes blight as defined herein.

**Section 248-2. Definition.**

1. For the purpose of this ordinance "blight" shall mean and refer to:

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1.1. structures, premises or appurtenances with objectively determinable exterior signs of substantial physical deterioration, dilapidation or lack of maintenance; and

1.2. which may be reasonably concluded to significantly depreciate the economic value of properties in the neighborhood; or which are reasonably determined to be detrimental to the health, safety, or welfare of occupants of neighboring properties.

2. Signs of substantial physical deterioration, dilapidation or lack of maintenance shall be deemed to include any of the following conditions:

2.1. Extensive amounts of: exterior surfaces with peeling, flaking or chipped paint, rust, corrosion or graffiti; broken windows; malfunctioning rain gutters; walls, foundations, or roofs with holes, fractures, fissures, voids, breaks, cracks, or deformations; loosened or rotting materials or missing coverings such as siding or shingles;

2.2. Structures with extensive fire damage beyond charring;

2.3. Structural flaws such as sagging roofs, porches or decks;

2.4. Plant growth which obstructs walkways, sidewalks, streets, or adjoining driveways;

2.5. The open storage of trash, garbage, debris, junk, household appliances, building materials, or furniture not designed for outdoor use;

2.6. Wrecked, dismantled, inoperable or unlicensed motor vehicles visible to the general public and not otherwise allowed by the Zoning Ordinance;

2.7. Fire and safety hazards in violation of federal, state or local laws, regulations or ordinances which may be visible from the exterior of the property;

2.8. Structures or other conditions which allow for infestation of rodents, vermin, wild animals, mosquitoes, or occupancy by vagrants, or otherwise constitute an attractive nuisance;

2.9. Structures intended for but unfit for human occupancy;

2.10. Other conditions which indicate that the property owner has abandoned responsibility for the maintenance of the property, is neglecting the maintenance of the property, or is otherwise not maintaining the exterior of the property in a clean, safe and sanitary condition.

3. No provision herein shall be construed to prohibit the preservation, protection,

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development and improvement of agricultural land, the production of food and other agricultural products, and the right of the farmer to farm as set forth in The Right to Farm Ordinance codified in Chapter 254 of the *Code of St. Mary's County, Maryland*. The provisions of this Ordinance shall not apply to any parcel of land or combinations of parcels of land, or improvements thereon, all or part of which parcel or combination of parcels is assessed as agricultural for the purposes of taxation of real property.

4. No provision herein shall be construed to prohibit the preservation and protection of historic structures subject to the provisions of Chapters 162 and 285 of the *Code of St. Mary's County, Maryland*.

5. No provision herein shall apply to any tobacco barn. For the purposes of this Ordinance a "tobacco barn" is any structure used, or previously used, for the manufacture or storage of tobacco, and is deemed to be an historic structure.

**Section 248-3. Notice of Violation.**

1. In the event of a citizen complaint of a violation, and after a finding by the Department of a violation of Section 248-1, the Department shall issue a Notice of Violation to each property owner of record according to the State Department of Assessments and Taxation.

2. The Notice of Violation form shall contain the following information:

2.1. The map and parcel number of the property.

2.2. The conditions listed under Section 248-2 that are the basis of the violation.

2.3. A statement that a citation for a municipal infraction will be issued unless remediation of the condition(s) is commenced within thirty (30) days of the issuance of a notice, or within thirty (30) days after a final order of the St. Mary's County Board of Appeals or of a court exercising appellate jurisdiction, whichever shall last occur, and such remediation is diligently pursued.

2.4. A municipal infraction under this ordinance is punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

2.5. A finding of a municipal infraction may result in a court order authorizing St. Mary's County to abate the nuisance and a lien for the costs of abatement.

2.6. The name and business telephone number of the official issuing the Notice.

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2.7. A statement that the Notice may be appealed to the St. Mary's County Board of Appeals.

3. A Notice of Violation shall be mailed, by certified or registered mail, return receipt requested, and by first-class mail, to each property owner of record at the address shown on the records of the St. Mary's County Treasurer and to each holder of a lien of record on the property at the last address shown among the lien records of the Clerk of the Circuit Court for St. Mary's County.

3.1. The failure of any person or entity having a legal or equitable interest in the property to receive a Notice of Violation shall not invalidate the Notice of Violation or any citation for a municipal infraction subsequently issued.

3.2. Substantial compliance or a good faith effort at compliance with the provisions herein regarding a Notice of Violation shall be sufficient.

4. The property owner, or any person or entity having a legal or equitable interest in the property, may appeal the issuance of a Notice of Violation within thirty (30) days of the issuance of the Notice of Violation to the St. Mary's County Board of Appeals by filing a Notice of Appeal pursuant to the rules of procedure of the St. Mary's County Board of Appeals.

**Section 248-4. Enforcement; penalty.**

1. The Department of Land Use and Growth Management (the "Department") is responsible for the enforcement of this section.

1.1. No citation for a municipal infraction shall be issued until the expiration of thirty (30) days after the issuance of a Notice of Violation, or thirty (30) days after a final order of the St. Mary's County Board of Appeals or a court exercising appellate jurisdiction concerning a Notice of Violation, whichever shall last occur.

1.2. After the expiration of thirty (30) days after the issuance of a Notice of Violation, or thirty (30) days after a final order of the St. Mary's County Board of Appeals or a court exercising appellate jurisdiction concerning a Notice of Violation, whichever shall last occur, the Department shall issue a citation for a municipal infraction unless remediation has been commenced and is diligently pursued. The citation for a municipal infraction shall be prosecuted in the same manner and to the same extent as set forth in *Local Government Article* of the *Annotated Code of Maryland*.

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1.3 No citation for a municipal infraction shall be issued regarding an owner-occupied single family dwelling for which application has been made through the St. Mary's County Housing Authority under the "Maryland Housing Rehabilitation Program - Single Family", which application is pending, in the process of approval, or approved. A copy of such application shall be delivered to the Department within thirty (30) days after the issuance of a Notice of Violation. The Department is authorized to monitor the status of the application.

2. Each violation of this Ordinance shall be a municipal infraction punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

**Section 248-5. Comprehensive Zoning Ordinance.**

The provisions herein are in addition to, and not in lieu of, any provision of Chapter 285 of the Code of St. Mary's County, Maryland.

**Section 248-6. Foreclosure Property Registry.**

1. The Department shall verify compliance with §14-126.1 of the Real Property Article of the Annotated Code of Maryland (Foreclosure Property Registry) in the event of a complaint regarding a property subject to the provisions thereof.

2. The civil penalty for failure to register under §14-126.1 shall be a fine to exceed One Thousand Dollars (\$1,000).

**SECTION II.** This Ordinance shall be effective upon the date written below.

Those voting Aye: 3

Those voting Nay: 2

Those Abstaining: 0

Date of Adoption: 1/21/14

Effective Date: 2/4/14

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ATTEST:

Rebecca B. Bridgett  
Rebecca B. Bridgett  
County Administrator

COMMISSIONERS OF ST. MARY'S COUNTY

Francis Jack Russell  
Francis Jack Russell, President

- No -  
Lawrence D. Jarboe, Commissioner

Cynthia L. Jones  
Cynthia L. Jones, Commissioner

Todd B. Morgan  
Todd B. Morgan, Commissioner

Daniel L. Morris  
Daniel L. Morris, Commissioner

Approved as to Form and Legal Sufficiency:

George R. Sparling  
George R. Sparling, County Attorney