

REC'D FEB 07 2005



To: Mayor Tilghman
City Council
From: William T. Holland ~~WTX~~
Date: February 3, 2005
Subj: Removal of Abandoned Property

Attached is an ordinance which will reduce the time frame from ten days to forty-eight (48) hours that abandoned property can remain on sidewalks, curbs and areas between the sidewalk and curbs.

The purpose of this ordinance is to reduce the time limit that abandoned property stays in public view which creates visual clutter along city streets. The Department of Building, Housing & Zoning receives numerous complaints and cites these types of violations on a regular basis. The most common items of abandoned property are sofas, stuffed chairs and mattresses. Typically, inspectors will issue a rubbish removal notice citing the abandoned property to be removed within ten days. Currently, it generally takes twelve to fifteen days to have the items removed from private property because of the time-frame between the compliance date and the actual date that a contractor can clean the property.

The ordinance requires that any notice served under Article XXVII, be served in accordance with Section 15.24.1430, Service of Notice. Due to the short time frame for compliance of this particular violation, forty eight hours or two business days, I recommend that the city add to Section (B), that notice is deemed to be served when notified by personal service, or facsimile transmission, or electronic mail.

If any Council member should have any questions, please call me at (410)548-3130.

**CITY OF SALISBURY
ORDINANCE NO. 1927**

AN ORDINANCE of the Mayor and the City Council of the City of Salisbury amending Article XXVIII - Eviction, Placement of Property, Removal, Assessment of Cost to require removal of abandoned personal property from sidewalks and front yards within two (2) business days.

WHEREAS, the City of Salisbury has enacted a “clean and lien” ordinance in Article XXVII - Eviction, Placement of Property, Removal, Assessment of Cost in order to remove abandoned personal property; and

WHEREAS, the Mayor and City Council desire to amend the “clean and lien” ordinance to provide for a speedy removal of abandoned personal property from sidewalks, curbs and adjoining areas.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Article XXVII - Eviction, Placement of Property, Removal, Assessment of Cost, be amended to read as follows:

ARTICLE XXVII Eviction, Placement of Property, Removal, Assessment of Costs
15.24.1390 Eviction - Abandoned property.

Whenever under a warrant of restitution executed by a designated authority the property of a tenant has been removed from the leased premises, the property shall be placed upon the landlord’s property in a place designated by the landlord or, if none is designated, on the landlord’s property as near as possible to the leased premises. In no event may any of tenant’s property be placed on a public highway, right-of-way, sidewalk or on any public property. Any property removed from the leased premises pursuant to a

property issued warrant of restitution shall be deemed abandoned. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)

15.24.1391 Abandoned property on sidewalks and front yards.

Abandoned property shall be placed on sidewalks, curbs and areas between the sidewalks and curbs, for no more than two (2) consecutive days.

15.24.1400 Notice to remove abandoned property.

The City of Salisbury's director of the department of building, housing and zoning is authorized to notify the owner, as defined in Section ~~15.24.930~~ 15.24.530 of the code, of the property, as determined by the official tax rolls of the City of Salisbury, to remove or properly dispose of the abandoned property from the subject property. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)

15.24.1410 Removal of abandoned property.

Upon the failure, neglect or refusal of any owner so notified to remove or properly dispose of such abandoned property within two business days after service of notice, as provided for in this article, the City of Salisbury's director of the department of building, housing and zoning is authorized and empowered to cause such condition to be corrected by removing and disposing of such abandoned property and is hereby authorized and empowered to pay for the disposing of such abandoned property or to order its disposal by the City of Salisbury's department of public works. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)

15.24.1420 Charge for removal--Collection.

When the City of Salisbury has effected the removal of such abandoned property by its own employees or has paid for the removal of such rubbish by its agents or contractors, the actual costs thereof and any related expenses, along with an administrative fee of one hundred dollars (\$100.00), shall be charged to the owner of such property and, if not sooner paid, such charge will be carried on the records of the City of Salisbury and shall be collectible in the same manner as real estate taxes are collected. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)

15.24.1430 Service of notice.

Any notice required by this article to be served shall be deemed to have been served when served delivered by any of the following methods:

A. When forwarded to the last known address of the owner as recorded in the real estate assessment records of the City by registered or certified mail, with return receipt, and such receipt shall constitute prima facie evidence of service upon such owner if such receipt is signed either by the owner or by a person of suitable age and discretion located at such address, provided that valid service upon the owner shall be deemed effected if such notice shall be refused by the owner and not delivered for that reason;

B. When delivered to the person to be notified by personal service, or facsimile transmission, or electronic mail;

C. When left at the usual residence or place of business of the person to be notified with a person of suitable age and discretion then resident or employed therein; or

D. If service cannot be effected as provided for above, then if published for three consecutive days in a daily newspaper published in the City of Salisbury and a copy of the same is posted on the subject property. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)

15.24.1440 Recorded statement to constitute lien.

Where the full amount due the City of Salisbury is not paid by such abandoned property, then the director of the department of building, housing and zoning shall cause to be recorded in the finance department for the City of Salisbury a sworn statement showing the cost and expense incurred for the work, the administrative fees, the date the work was ~~done~~ performed and the location of the property on which such work was ~~done~~ performed. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)

~~15.24.1450 Appeals.~~

~~Within two business days from the service of notice as provided for in this article, the owner of his agent may file an appeal with the City council stating in detail the reasons as to why the action proposed by the direction of the department of building, housing and zoning should not be taken. Upon receipt of such appeal, the City Council shall put the cause on its agenda at its earliest convenience, notify the protestant thereof and hear the merits of the appeal. The City Council may reverse the action of the director of the department of building, housing and zoning for any error of fact or law or upon a finding that the enforcement constitutes an undue hardship upon the property owner which the property owner is physically or financially unable to comply with. If the protestant is dissatisfied with the decision of the City Council, he shall have the right to appeal to the~~

~~Circuit Court of the county, provided that such appeal be taken within thirty (30) days after the protestant is notified (either at the hearing or in writing) of the City Council's decision. (Ord. 1695 (part), 1998; Ord. 1676 (part), 1997)~~

AND BE IT FURTHER ENACTED AND ORDAINED by the Council of the City of Salisbury, Maryland, that this Ordinance shall take effect from and after the date of its final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the ____ day of _____, 2005, and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the _____ day of _____, 2005.

Brenda J. Colegrove, City Clerk

Michael P. Dunn,
President of the Council of
the City of Salisbury

Approved by me, this _____
day of _____, 2005.

Barrie P. Tilghman,
Mayor of the City of Salisbury