

ARTICLE 75

REMEDY OF PUBLIC NUISANCE

Section 1 Authority and Purpose

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution and the specific powers granted by the Massachusetts General Laws, this by-law is adopted to remedy nuisances within the Town.

Section 2 Definitions

In this by-law, the following words shall have the following meanings:

- 1) **Building:** A combination of any materials, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, to form a structure for the shelter of persons, animals, or property. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof".
- 2) **Interested Parties:** In connection with the notification requirements of this by-law, interested parties are the owner(s) of the property which is the subject of the hearing; the property occupant, if different, the Town Administrator or his designee; owners of property directly opposite the subject property on any public or private street or way; abutters of the subject property; and abutters of abutters within three hundred feet of the property line of the subject property. Ownership of land shall be determined by the most recent tax list.
- 3) **Nuisance:** All public nuisances as known at common law or in equity jurisprudence; and furthermore whatever is dangerous to human life or detrimental to health. Specific conditions which may be characterized as nuisances include, without limitation:
 - a) Burned structures not otherwise lawfully habitable or usable
 - b) Dilapidated structures
 - c) Dangerous or unsafe structures
 - d) Dead, decayed, diseased or hazardous trees, debris or trash
 - e) Unregistered or abandoned vehicles or discarded vehicle parts which are not reasonably related to a use of the property permitted under current zoning
 - f) Commercial vehicles in excess of that permitted under current zoning by-laws
 - g) Construction equipment not being diligently employed in construction activity on-site in a single family (RS) zoning district.
- 4) **Owner:** The recorded title holder to the property, or the authorized agent, assignee or representative of said title holder.
- 5) **Occupant:** The person occupying or in control of such property.
- 6) **Structure:** A combination of materials assembled at a fixed location to give support or shelter such as a building, framework, retaining wall, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, or mast for an antenna or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part or parts thereof"

Section 3 Investigation

The Town Administrator shall, upon written complaint, have any condition inspected which may constitute a nuisance. The Town Administrator shall assign the investigation to the town official who, in the Town Administrator's judgment, is the most appropriate investigating authority.

Section 4 Report

If, in the opinion of the Town Administrator or his designee, the reported condition does constitute a nuisance, he or his designee shall make a written report to the Select Board of such condition, together with a petition for remedial action, and shall file a copy of the petition with the Town Clerk.

Section 5 Hearing

Upon receipt of such petition and report, the Select Board shall set a date for a hearing before said Board, not more than thirty (30) days after the date of filing of the petition with the Town Clerk.

Section 6 Notification

Notice of said hearing shall be posted, published and sent to all interested parties not less than fourteen (14) days before the date of said hearing. Notice of the hearing shall state the subject matter sufficient for proper identification, and the date, time and place of the hearing and shall be made in the following manner:

- 1) Publication of the notice in a newspaper of general circulation in the Town
- 2) Mailings by first class mail to the addresses of interested parties.

Section 7 Order

Within seven (7) days of the hearing, the Select Board shall determine whether or not the condition constitutes a nuisance, and shall determine what action shall be taken by the owner to remove the nuisance. Such actions may include, but shall not be limited to abatement or removal of the nuisance at the owner's expense within twenty-four hours after service of the order, or such other time as may be determined by the Select Board.

Section 8 Service of Order

The Town Clerk shall deliver a copy of the order to an officer qualified to serve civil process, who shall forthwith serve an attested copy thereof. Such order shall be in writing and shall be served on the owner in the manner specified by MGL, Ch. 111, s. 124, as amended.

Section 9 Penalty

An owner or occupant shall forfeit one hundred dollars (\$100.00) for every day during which he willfully violates such order.

Section 10 Appeal to Superior Court

In accordance with MGL, Ch. 139, s. 2, a person aggrieved by such order may appeal to the Middlesex Superior Court. This civil action must be commenced within three (3) days after the service of the attested copy of the order upon said aggrieved person.

Section 11 Removal of Nuisance by Select Board

If the owner fails to comply with the order within the time limit given in the order, the Select Board may cause the nuisance to be removed and all expenses incurred thereby shall constitute a debt due the Town upon completion of the removal and the rendering of an account therefor to the owner, and shall be recoverable from such owner in an action of contract. Any such debt shall constitute a lien on the land upon which the nuisance was located. The Select Board shall follow the procedures relative to liens provided in MGL, Ch. 139, s. 3A, as amended.