

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SALISBURY TO ENACT CHAPTER 8.25 TO PROVIDE A MEANS FOR COMMUNITY ASSOCIATIONS OR THE CITY TO ABATE NUISANCES THAT ARE CREATED BY PROPERTIES BEING USED FOR THE PURPOSE OF PROSTITUTION AND ACTS RELATED THERETO.

WHEREAS, the Mayor and Council find that even though prostitution and acts related thereto are criminal in nature, they are difficult for the City of Salisbury Police Department to enforce in a comprehensive manner;

WHEREAS, the Mayor and Council find that prostitution and acts related thereto are “gateway crimes” that, if unchecked, will lead to the perpetuation of other criminal acts that may have a more serious impact on the neighborhoods of the City of Salisbury;

WHEREAS, the Mayor and Council find that prostitution and acts related thereto have a negative effect on the health, safety, and welfare of the Citizens of the City of Salisbury;

WHEREAS, the Mayor and Council have modeled the Nuisance Action for Abatement of Prostitution and Acts Related Thereto after Maryland Code, §14-120 of the Real Property Article statute providing similar recourse to residents seeking relief from the activities related to “drug houses”;

NOW THEREFORE, be it enacted and ordained by the City Council of the City of Salisbury, in regular session, as follows:

1. That Chapter 8.25 is enacted as follows:

### **Chapter 8.25**

#### **Nuisance Actions for Abatement of Prostitution and Acts Related Thereto.**

##### **Sections:**

- 8.25.010**     **Scope.**
- 8.25.020**     **Purpose.**
- 8.25.030**     **Definitions.**
- 8.25.040**     **Abatement.**
- 8.25.050**     **Notice to Commercial Properties.**
- 8.25.060**     **Remedies.**
- 8.25.070**     **Restitution.**
- 8.25.080**     **Reputation of property – Admissible evidence.**

- 8.25.090**      **Costs and Attorneys Fees.**
- 8.25.100**      **Actions to be heard.**
- 8.25.110**      **Other rights or remedies.**
- 8.25.120**      **Appeal; requests for oral arguments.**

**8.25.010**      **Scope.**

The provisions of this Chapter govern any location within the City of Salisbury where prostitution and acts related thereto occur.

**8.25.020**      **Purpose.**

The purpose of this Chapter is to protect the public health, safety, and the general welfare of the citizens of the City of Salisbury from the nuisance that is created by prostitution and acts related thereto, and the criminal activity associated with the same.

**8.25.030**      **Definitions.**

“Commercial property” does not include residential rental property.

“Community association” means: a nonprofit association, corporation, or other organization that is comprised of residents of a community within which a nuisance is located, operated exclusively for the promotion of social welfare and general neighborhood improvement and enhancement, and exempt from taxation under § 501 (c)(3) or (4) of the Internal Revenue Code; or a nonprofit association, corporation, or other organization that is comprised of residents of a contiguous community that is defined by specific geographic boundaries, within which a nuisance is located, and operated for the promotion of the welfare, improvement and enhancement of that community.

“Nuisance” means a property that is used by persons for the purpose of engaging in prostitution and acts related thereto.

“Operator” means a person that exercised control over property.

“Operator” includes a property manager or any other person that is authorized to evict a tenant.

“Owner” includes an owner-occupant.

“Owner-occupant” includes an owner of commercial property that conducts business in any part of the property.

“Property” includes, but is not limited to, a mobile home, hotel, motel, house, apartment, structure, building, or dwelling unit.

“Tenant” means the lessee or a person occupying property, whether or not a party to a lease.

“Tenant” includes a lessee or a person occupying a mobile home, whether or not a party to a lease.

“Tenant” does not include the owner of the property or mobile home owner who leases or rents a site for residential use and resides in a mobile home park.

#### **8.25.040 Abatement.**

A. An action to abate a nuisance under Maryland Code, § 4-401 of the Courts and Judicial Proceedings Article may be brought in the District Court of Maryland by a community association located within the City of Salisbury, provided the nuisance is located within its boundaries, or by the City of Salisbury provided the nuisance is located within its boundaries.

B. An action to abate a nuisance may be brought in the District Court of Maryland against a tenant of the property where the nuisance is located, an owner of the property where the nuisance is located or an operator of the property where the nuisance is located.

#### **8.25.050 Notice to Commercial Properties.**

A. A tenant, if any, of the commercial property where the nuisance is located and an owner of the commercial property where the nuisance is located shall be put on notice of the nuisance in accordance with this chapter. An action may not be brought under this chapter concerning a commercial property until 45 days after the tenant, if any, and the owner of record received notice from a person entitled to bring an action under this chapter that a nuisance exists.

B. The notice shall specify the date and time the nuisance was first discovered and the location on the commercial property where the nuisance is allegedly occurring.

C. The notice shall be hand delivered to the tenant, if any, and the owner of record, or sent by certified mail to the tenant, if any, and the owner of record.

D. In addition to any service of process required by the Maryland Rules, the plaintiff shall cause to be posted in a conspicuous place on the commercial property no later than 48 hours before the hearing the notice required under B of this section, which shall also indicate the nature of the proceedings, the time and place of the hearing, and the name and telephone number of the person to contact for additional information.

#### **8.25.060 Remedies.**

A. A plaintiff is entitled to relief under this chapter whether or not an adequate remedy exists at law. If, after a hearing, the court determines that a nuisance exists, the court may order any appropriate injunctive or other equitable relief.

B. In addition to or as a component of any remedy ordered under A of this section, the court may order:

1. A tenant who knew or should have known of the existence of the nuisance to vacate the property within 72 hours; or

2. An owner or operator of the property to submit for court approval a plan of correction to ensure, to the extent reasonably possible, that the property will not again be used for a nuisance if:

a. The owner or operator is a party of the action, and

b. The owner or operator knew or should have known of the existence of the nuisance.

**8.25.070 Restitution.**

A. If a tenant fails to comply with an order under section 8.25.060 of this Chapter and the owner or operator, and tenant are parties to the action, the court, after hearing, may order restitution of the possession of the property to the owner or operator.

B. If the court orders restitution of the possession of the property under A of this section, the court shall immediately issue its warrant to the sheriff or constable commanding execution of the warrant within 5 days after issuance of the warrant.

C. If an owner, including an owner-occupant, fails to comply with an order under section 8.25.060 of this Chapter, after a hearing the court may, in addition to issuing a contempt order or an order for any other relief, order that:

1. The property be sold, at the owner's expense, in accordance with the Maryland Rules governing judicial sales; or

2. The property be demolished if the property is unfit for habitation and the estimated cost of rehabilitation significantly exceeds the estimated market value of the property after rehabilitation.

D. If an owner-occupant fails to comply with an order under section 8.25.060, regarding a nuisance in the owner-occupied unit of the property, after a hearing the court may, in addition to issuing a contempt order or an order for any other relief, order that:

1. The owner-occupied unit be vacated within 72 hours; and

2. The owner-occupied unit remain unoccupied for a period not to exceed 1 year or until the property is sold in an arm's length transaction.

E. Except as provided in section 8.25.060B, the court may order appropriate relief under section 8.25.060 without proof that a defendant knew of the existence of the nuisance.

**8.25.080 Reputation of property – Admissible evidence.**

A. In any action brought under this Chapter evidence of the general reputation of the property is admissible to corroborate testimony based on personal knowledge or observation, or evidence seized during the execution of a search and seizure warrant, but shall not, in and of itself, be sufficient to establish the existence of a nuisance under this section; and

B. Evidence that the nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing does not bar the imposition of appropriate relief by the court under this Chapter.

**8.25.090 Costs and Attorneys Fees.**

The court may award court costs and reasonable attorney's fees to the prevailing plaintiff in an action brought under this Chapter.

**8.25.100 Actions to be heard.**

An action under this Chapter shall be heard within 14 days after service of process on the parties.

**8.25.110 Other rights or remedies.**

This Chapter does not abrogate any equitable or legal right or remedy under existing law to abate a nuisance.

**8.25.120 Appeal; requests for oral arguments.**

A. An appeal from a judgment or order under this Chapter shall be filed in the Circuit Court for Wicomico County within 10 days after the date of the order or judgment.

B. If either party files a request for oral argument, the Circuit Court for Wicomico County shall hear the oral argument within 7 days after the request is filed.

C. If the appellant files a request for oral argument, the request shall be filed at the time of the filing of the appeal.

D. If the appellee files a request for oral argument, the request shall be filed within 2 days of receiving notice of the appeal.