TOWN OF PRINCESS ANNE, MARYLAND
LEGISLATIVE SESSION
ORDINANCE NO. 2016 - 6

AN ORDINANCE to enact Chapter 109 entitled "NEIGHBORHOOD NUISANCES AND UNRULY SOCIAL EVENTS" of the Code of the Town of Princess Anne, to provide definitions, duties of persons responsible for neighborhood nuisances and unruly social events, defining prohibited conduct, methods of enforcement for prohibited conduct, and cost of response.

WHEREAS, the Police Department and Code Enforcement Department of the Town of Princess Anne, have recommended to the Town Commissioners that the Town Code be amended to provide for municipal infractions for neighborhood nuisances and unruly social events, with corresponding fines, and a mechanism for recovery of response costs due to a series of unruly social events which have occurred within the Town; and

WHEREAS, the Town Commissioners of the Town of Princess Anne have reviewed the basis for these concerns about neighborhood nuisances and unruly events, and have determined it is in the best interest of the health, welfare and safety of the citizens of the Town to enact an ordinance which provides definitions and a mechanism for municipal infractions and fines; and a mechanism for the collection of response costs for neighborhood nuisances and unruly social events.

SECTION I. NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE TOWN COMMISSIONERS OF THE TOWN OF PRINCESS ANNE, MARYLAND, IN LEGISLATIVE SESSION:

CHAPTER 109
NEIGHBORHOOD NUISANCES
AND UNRULY SOCIAL EVENTS

§ 109-1 Definitions.

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

A. NEIGHBORHOOD NUISANCE – Any premises on or in which an owner, operator, tenant, or occupant of or the holder of any possessory interest in those premises:

(1) acts in a disorderly manner that disturbs the public peace; or

(2) creates or maintains conditions that let others act in a disorderly manner that disturbs the public peace.

B. ALCOHOLIC BEVERAGE – As defined in State Code Article 2B, § 1-102 and includes any mixture of an alcoholic beverage with a non-alcoholic beverage.

C. CONTROLLED SUBSTANCE – Any drug or substance that the possession and use of which is regulated under the state controlled dangerous substance act and not including any drug or substance for which a person has a valid prescription issued by a licensed medical practitioner authorized to issue such a presubscription.

D. FAMILY EVENT – A party or gathering where each underage person present is directly supervised by an adult family member who is 21 years old or over.

E. JUVENILE – Any individual who is under the age of 18.

F. OCCUPANT – Any person occupying a premises, whether or not a party to a lease.

G. OPERATOR – Any person who has charge, care, or control of all or any part of a premises.

H. OWNER – The person in whose name a premises is recorded in the Land Records of Somerset County or any other person with a legal or equitable interest in a premises, including a person who has an interest as a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

I. PARENT – Any natural parent, adoptive parent, step-parent, foster parent, or legal guardian.

J. PERSON –

(1) an individual;

(2) a partnership, firm, association, corporation, or other entity of any kind; or

(3) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind.

K. PERSON RESPONSIBLE – the owner, operator, tenant, or occupant of, or the holder of any possessory interest in those premises, whether alone or jointly with any other person, including a person who organizes, supervises, or conducts an unruly social event.

L. PREMISES – All or any part of any land, building, or other structure.

M. TENANT – Any tenant or lessee, whether under a written or oral lease.

N. UNDERAGE PERSON – Any individual who is under the age of 21.

O. UNRULY SOCIAL EVENT – A party or gathering of 2 or more individuals on or in any premises at which:

(1) alcoholic beverages are consumed by, furnished to, or possessed by any underage person in violation of law; or

(2) the conduct creates a disturbance of the peaceful enjoyment by others of private or public property, including:

(a) excessive noise, including as described in Chapter 101 or other applicable law;
(b) obstruction of public rights-of-way by unruly crowds;
(c) public drunkenness;
(d) assaults, batteries, or other disorderly conduct that disturbs the public peace;
(e) vandalism of public or private property;
(f) littering;
(g) public urination;
(h) excessive traffic that is significantly in excess of the normal amount of pedestrian and vehicle traffic for the day, date, and time of day for the zoning district;
(i) use of a controlled substance by any person at the gathering; or
(j) any other conduct that constitutes a threat to the public health, safety, or general welfare.

§ 109-2. Duties of persons responsible, owners or operators, and parents of juveniles.

A. Persons Responsible.

(1) Every person responsible for any premises is required to maintain, manage, and supervise the premises and all persons on or in the premises in a manner so as not to violate the provisions of this chapter.

(2) A person responsible for any premises remains liable for a neighborhood nuisance or an unruly social event even if that person was not present during the nuisance activity or the unruly social event.

B. Owners or operators.

An owner or operator of the premises remains liable for violating this subtitle regardless of any contract or agreement with any third party regarding the premises.

C. Parents of juveniles.

If the person responsible for the premises on or in which a neighborhood nuisance or an unruly social event occurs is a juvenile, then the juvenile and the parents of the juvenile are jointly and severally liable for paying the penalties and response costs imposed by this subtitle.

§ 109-3. Prohibited conduct.

No person responsible for any premises may conduct, cause, permit, aid, or condone a neighborhood nuisance or any unruly social event on or in those premises.

§ 109-4. Enforcement by citation.

A. In general.

In addition to any other civil or criminal remedy or enforcement procedure, this chapter may be enforced by issuance of a municipal infraction, as authorized and described by Chapter §1-1 through § 1-9.

B. Process not exclusive.

The issuance of a municipal infraction to enforce this chapter does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

C. Defense.

(1) A municipal infraction may be issued under this subtitle citing the owner, operator, tenant, occupant, or holder of a possessory interest without proof of knowledge of participation in the neighborhood nuisance or unruly social event.

(2) For a municipal infraction issued under this subtitle to the owner or operator of leased property, it is a defense to any fine imposed on the owner or operator that:

(a) the owner or operator neither authorized, knew in advance of, nor participated in the neighborhood nuisance or unruly social event; and

(b) the owner or operator has not received municipal citations under this Section for the leased building more than three (3) times in a twelve (12) month period; and

(c) the owner or operator provides proof:

[1] that the owner or operator has regained possession of the leased property; or

[2] that the owner or operator has filed court proceedings under State Real Property Article § 8-402 to regain possession of the leased property and that:

[i] the court has entered a judgment in favor of the owner or operator; or

[ii] those court proceedings are still pending at the time the citation is being adjudicated, in which case the court adjudicating the citation may postpone its proceedings until the conclusion of the court proceedings to regain possession.

(3) For purposes of court proceedings filed under paragraph (2)(c)[2] of this subsection, it is the intent that a violation of this subtitle shall be construed as demonstrating a clear and imminent danger that the persons responsible or others involved will do serious harm to themselves or others, within the scope and meaning of *Real Property Article* § 8-402.1(a)(1)(i)2.B.

§ 109-5. Penalties.

A. Chapter 109, Neighborhood Nuisances and Unruly Social Events

(1) Single violation: $500.

(2) Repeat violations within twelve (12) month period: $1,000.

§ 109-6. Recovery of Response Costs.

A. Upon the issuance of more than one municipal infraction within twelve (12) months at the same premises, all responsible persons shall be liable for the Town's costs incurred responding to any neighborhood nuisance or any unruly social event after the issuance of the first municipal infraction.

B. A response cost schedule of fees shall be established separately by resolution.

C. An itemized invoice of the amount of response costs due shall be mailed to all responsible persons within twenty-one (21) days of the response.

D. Liability for response costs is independent from municipal infractions under this chapter.

E. The Town may enforce this subtitle by civil action. Any judgment shall be assessed against the premises involved and collected in the same manner as town taxes.

§ 109-7.1. Penalties for multiple-family dwellings of more than 25 units.

A. In such cases where the responsible person is the property owner, property manager and/or the landlord of a multi-family dwelling of more than 25 units, the following penalty shall be imposed for the first and subsequent violations within a twelve (12) month period: a citation with a penalty as set forth in §109-5.

B. The fines set forth in this Section may be appealed pursuant to § 109-11. The payment of any such fines shall be stayed upon any timely appeal.

C. The fines set forth in this Section are in addition to any response costs that may be imposed.

§ 109-8. Notice of violation.

A. Issuance of written citation. When a law enforcement officer makes an initial response to an underage of unruly gathering at a residence or other private property within the Town of Princess Anne, the officer shall issue a municipal infraction citation for violation of this Ordinance to all identified responsible persons.

B. If a municipal infraction citation is issued according to subsection (A), the police officer, within thirty (30) days of the issuance of the citation to the responsible persons, shall serve a warning or municipal infraction on the property owner of the residence or other private property in accordance with §109-4 and §109-7.1.

C. Within thirty (30) calendar days of the initial citation, a written warning shall be transmitted via certified mail to the record owner of the residence or private property. A copy of the written warning shall also be transmitted to the property manager of the property if the property manager or the record owner of the residence or private property has, prior to the municipal infraction, provided contact information to the Town.

D. Issuance of written warning for recovery of response costs. A law enforcement officer who issues an initial municipal infraction citation for violations of this Ordinance shall also issue a written response cost warning to all identified responsible persons. The warning shall state that an underage or unruly gathering existed on the date of the incident in question and the responsible persons may be charged for any response costs incurred for subsequent responses to the property for an underage or unruly gathering within a twelve (12) month period.

§ 109-9. Billings and Collections.

A. The amount of any administrative penalty or response costs shall be deemed a debt owed to the Town of Princess Anne by the responsible persons held liable pursuant to this Ordinance for the underage or unruly gathering and, if a juvenile, by the juvenile's parents or guardians.

B. Notice of the costs for which the responsible persons are liable shall be mailed via first-class or certified mail within fourteen (14) days of the response giving rise to such costs. The notice shall include an itemized list of the response costs for which the person(s) is being held liable.

C. An administrative penalty or response cost shall be paid to the Town of Princess Anne pursuant to the Municipal infraction procedures provided in Chapter 1, General Provisions, §1-4.

D. Payment of a fine pursuant to this Ordinance shall not excuse or discharge any continuation or repeated occurrence of the violation of this Ordinance. An action may be commenced in the name of the Town of Princess Anne in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid penalty or recovery cost fee together with attorney's fees and any penalties applicable thereto as prescribed by this Code.

E. The remedy prescribed by this Section shall be accumulative, and the use of an action to collect such an amount as a debt by civil action shall not bar the use of any other remedy provided by this Code or by law for the purpose of enforcing the provisions thereof.

§ 109-10. Appeals.

Any person upon whom is imposed an administrative fine or recovery costs pursuant to this Ordinance shall have the right to stand trial for the offence in accordance with the Town's Municipal Infractions procedures as provided in Chapter 1, General Provisions, §1-4.

§ 109-11. Reservation of Legal Options.

Nothing in this Ordinance shall be construed as a waiver by the Town of Princess Anne of any right to seek reimbursement for actual costs of response services through other legal remedies or procedures. The procedure provided for in this Ordinance is in addition to any other statute, ordinance or law, civil or criminal. This Ordinance in no way limits the authority of peace officers or private citizens to make arrests for any criminal offense arising out of conduct regulated by this Ordinance.

§ 109-12. No Mandatory Duty of Care.

This Ordinance is not intended to impose, and shall not be construed or given effect in a manner that imposes upon the Town of Princess Anne or any officer, employee, agent or representative of the Town, a mandatory duty of care toward persons or property within or without the Town limits, so as to provide a basis of civil liability for damages, except as may otherwise be imposed by law.

SECTION II. SEVERABILITY. Should any provision, section, paragraph or subparagraph of this Article, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable by a court having competent jurisdiction, the same shall not affect the validity, legality, or enforceability of any other provision, sections, paragraph or subparagraph hereof, including any code or text adopted hereby. Each such provision, section, paragraph or subparagraph is expressly declared to be and is deemed severable.

SECTION III. ADDITION TO CODE. It is the intention of the Commissioners, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, and the Sections of this ordinance may be renumbered to accomplish such intention.

SECTION IV. EFFECTIVE DATE. This Ordinance shall take effect at the expiration of twenty (20) calendar days from its final passage.

THIS ORDINANCE was introduced and read at a meeting of the Town Commissioners of the Town of Princess Anne, Maryland, held on the 7th day of March, 2016, and, passed for Second Reading. Thereafter, the Ordinance was finally passed by the Town Commissioners on the ____ day of _____, 2016. In accordance with Section 410 of the Charter of Princess Anne, Maryland, a statement of the substance of the Ordinance has been published at least twice in a newspaper or newspapers having general circulation in the Town of Princess Anne and posted as required by law.

TOWN OF PRINCESS ANNE, MARYLAND

_____
Garland R. Hayward, President

_____
Joseph Gardner, Vice President

_____
Michael Hall, Commissioner

_____
Dennis Williams, Commissioner

_____
Lionel Frederick, Commissioner

Attest:_____
Deborah Hrusko, Town Manager