

AMENDMENT TO ORDINANCE 12-10

AN ORDINANCE AMENDING THE MILLBROOK CODE OF ORDINANCES RELATING TO CHAPTER 62 ARTICLE IV. - ACTIONS TO BE TAKEN

This amends Millbrook Code of Ordinances Chapter 62, Article IV, Section 62.37.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILLBROOK, Alabama, that the following Sections and Subsections of the City of Millbrook Code of Ordinances are revised as follows:

SECTION 62.37. City of Millbrook Code of Ordinances Chapter 62, Article IV - Actions to Be Taken, Section 62.37. - Criminal action for abatement of nuisance - is deleted in its entirety and replaced with the following:

Section 62.37. - Criminal action for abatement of nuisance.

Although the municipal court's jurisdiction is limited to providing for fines, imprisonment (or both) and does not include any injunctive relief (such as the abatement of a nuisance) said court does have jurisdiction for prosecution of a breach of all municipal ordinances (Code of Ala. 1975, §12-14-1(b)) and may order that any violator of Sections 62-33 through 62-36 of this chapter be fined, imprisoned, or both, and may order restitution in order for the city to recoup any expenses involved in the abatement of such violation. A criminal action is the least time-consuming, and therefore the preferred method for abating a nuisance. However, circumstances may dictate that an action in civil court shall be taken, as in the instance (without limitation) of an absentee landowner.

(a) Whenever an enforcing official discovers any nuisance upon premises located in the city limits or police jurisdiction of the city (except control of weeds which is not enforced in the police jurisdiction), the enforcing official shall initially cause to be issued to the owner or person in charge of said premises notice that said person is in violation of this article. Notwithstanding the previous sentence if, in the opinion of the enforcing official, immediate action is required to protect the safety and welfare of the public these preliminary notices need not be issued, or the time for compliance may be reduced. This action shall rarely be used and may not be lightly or arbitrarily made. The enforcing official must have an articulately rational reason for taking such swift action. Notice shall be perfected by personal delivery to the violator, or by first class mail addressed to the responsible party. If the responsible party cannot be located, the notice shall be placed in each accessible doorway of the home/building, as well as upon the property in a reasonably visible area. Notice shall be on city letterhead in substantially the following form for Section 62.33 as follows:

CITY OF MILLBROOK LETTERHEAD

Date

NAME OF PROPERTY OWNER
STREET ADDRESS
MILLBROOK, ALABAMA 36054

NOTICE

This structure, _____ Parcel No. _____, is considered a public nuisance by the City of Millbrook and must be demolished or repaired to bring it into compliance with the International Existing Building Code.

Within 30 days from the date of this notice is given, any person, firm or corporation having an interest in the building or structure may file a written request for hearing before the City Council for the City of Millbrook, together with that person's objections to the finding by the City Enforcement Office that the building or structure is unsafe to the extent of becoming a public nuisance. The filing of the request shall hold in abeyance any action on the finding of the Enforcement Officer until determination thereon is made by the City Council.

Upon holding a hearing, which shall be held not less than five nor more than 30 days after the request, or in the event no hearing is timely requested, after the expiration of 30 days from the date the notice is given, the City Council shall determine whether or not the building or structure is unsafe to the extent it is a public nuisance.

In the event that it is determined by the City Council that the building or structure is unsafe to the extent that it is a public nuisance, the City Council shall order the building or structure to be repaired or demolished, as the case may be. The repairs or demolition may be accomplished by the City of Millbrook by contract for the repairs or demolition. The City of Millbrook shall have authority to sell or otherwise dispose of salvaged materials resulting from any demolition hereunder.

Any person aggrieved by the decision of the City Council at the hearing may, within 10 days thereafter, appeal to the circuit court upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk of the court shall serve a copy of the notice of appeal on the clerk of the city and the appeal shall be docketed in the court, and shall be a preferred case therein.

The clerk of the city shall, upon receiving the notice, file with the clerk of the court a copy of the findings and determination of the City Council in proceedings and trials shall be held without jury upon the determination of the governing body that the building or structure is unsafe to the extent that it is a public nuisance.

Any questions or comments concerning this notice or any inspection reports should be directed to the Enforcement Officer, 3160 Main Street, Millbrook, Alabama. (334) 285-6428.

Notice shall be on city letterhead in substantially the following form for Section 62-34 through 62-36 as follows:

CITY OF MILLBROOK LETTERHEAD

NOTICE

Date _____

NAME OF PROPERTY OWNER
STREET ADDRESS
MILLBROOK, ALABAMA 36054

You are hereby notified that you are maintaining the following described nuisance in violation of one or more of the following Section(s) of the Code of Ordinances of City of Millbrook, Alabama.

SECTION 62-34¹ SECTION 62-35² SECTION 62-36³
(Circle applicable Sections) to-wit:

This nuisance must be corrected with _____ days of the date of this Notice. If not corrected within this time a complaint will be filed in the Millbrook Municipal Court for violation of the above stated Code Section.

The official whose name appears below or such other designated representative will inspect the premises on the next business day following the scheduled completion date shown above. If necessary corrections have been made no further action will be taken. If you have any questions please call the undersigned at the phone number shown below.

DATE: _____

Enforcing Officer - Printed Name

Enforcing Officer - Signature

Phone No. _____

¹ 62-34 - Junk and Junk Vehicles

² 62-35 - Weeds/vegetation: overgrown grass or weeds prohibited and declared a nuisance.

³ 62-36 - Abandoned vehicles

(b) If the condition(s) cited is/are not corrected by the time provided above, the enforcing official may file a complaint in the municipal court and a summons to appear in said court issued.

(c) In addition to seeking a summons the enforcing official may have the nuisance abated at the city's expense and request restitution of that amount in the municipal court case.

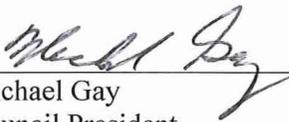
(d) If the person responsible for the upkeep of the premises cannot be located, or if for any reason(s) the above procedures prove impractical, the enforcing official may seek abatement through the office of the city attorney for possible civil action.

SECTION 2: All other sections or provisions of the Code of Ordinances of the City of Millbrook, Alabama, not specifically amended herein remain in full force and effect.

SECTION 3. Should any section or provision of this Ordinance be held invalid, such holding shall not affect the validity of any other section or provision hereof which is not of itself invalid.

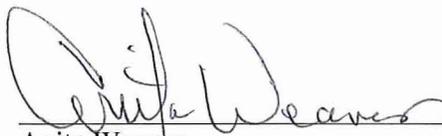
SECTION 4. This Ordinance shall become effective upon its adoption and publication as required by law.

ADOPTED AND APPROVED THIS 28 DAY OF May, 2019.



Michael Gay
Council President

ATTEST:



Anita Weaver
City Clerk

APPROVED:



Al Kelley
Mayor

VETOED:

Al Kelley
Mayor

CERTIFICATE AS TO APPROVAL OR VETO BY MAYOR

I, the undersigned City Clerk of the City of Millbrook, Alabama do hereby certify that the above and foregoing Ordinance was duly approved/vetoed by the Mayor of the City of Millbrook on the 28 day of May, 2019.



Anita Weaver
City Clerk

CERTIFICATE AS TO COUNCIL'S ACTION FOLLOWING MAYOR'S VETO

I, Michael Gay, as President of the City Council of the City of Millbrook, AL hereby certify that on the ____ day of _____, 2019 that the council voted to sustain/override the Mayor's veto of this Ordinance.

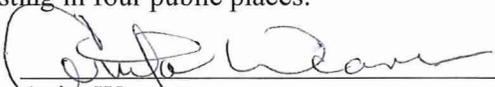
Michael Gay
Council President

ATTESTED BY:

Anita Weaver
City Clerk

PUBLISHING

I, the undersigned City Clerk of the City of Millbrook, Alabama do hereby certify that the above and foregoing Ordinance has been published by posting in four public places.



Anita Weaver
City Clerk