

**AS AMENDED ON MAY 28, 2013 and JUNE 10, 2013
ORDINANCE NO. 2251**

AN ORDINANCE ~~of the Mayor and Council~~ of the City of Salisbury, Maryland, adding Chapter 15.23 to the City Municipal Code, to create a procedure under which the City may petition the Circuit Court for appointment of a receiver to rehabilitate vacant structures, to demolish vacant structures, or to sell vacant structures or vacant lots to qualified buyers.

WHEREAS, the City Council desires to reduce incidence of nuisances within the City related to vacant structures and vacant lots;

WHEREAS, the City Council desires to reduce the incidence of fire hazards within the City related to vacant structures;

WHEREAS, pursuant to Salisbury Charter §§ 5-1(A)(5) and § 5-1(A)(24), the City may regulate vacant buildings; and

WHEREAS, the City Council believes that the creation of a procedure under which a receiver will be appointed to rehabilitate, demolish, or sell vacant structures or vacant lots is beneficial to promoting public safety and promotes community welfare.

NOW THEREFORE, be it enacted and ordained by the Council of the City of Salisbury, Maryland, that Chapter 15.23 be added to Title 15, Buildings and Construction of the Salisbury Municipal Code.

Chapter 15.23 ("Vacant Structure/Lot Receivership") is added to the Salisbury Municipal Code and shall read:

15.23.010 — Scope

~~This chapter applies to real property on which stands a structure which is vacant, as defined in § 15.22.030, and which has been condemned under § 15.24.280, et seq. or ordered demolished under § 15.24.330, et seq.; and vacant lots under § 15.24.270 has been condemned, has an unsatisfied order for demolition, is abandoned; defined as follows "The owner of record has failed to make any attempt to maintain the structure in accordance with the property maintenance standards as defined in the Property Maintenance Code of the City of Salisbury"; has an unsatisfied court order to abate violations, has outstanding liens on the property, has been boarded up in excess of six months without having received approval from the Building Official.~~

15.23.10 Scope

This chapter applies to real property on which stands a structure which is vacant, as defined in § 15.22.030, and (1) which has been condemned under § 15.24.280, et seq. or ordered demolished under § 15.24.330, et seq. or (2) which has been inadequately maintained and has an unsatisfied Court order to abate a violation or an outstanding lien for maintenance ordered by the City, or has been boarded up in excess of six months without the approval of the Building Official. This chapter also applies to vacant land under § 15.24.270 when necessary to prevent blighted conditions or an adverse impact on public health, or safety.

15.23.020 In general

The housing official may petition the court ~~for appointment of a receiver~~ to be appointed as a receiver to rehabilitate a vacant structure, to demolish it, or to sell the vacant structure and/or property to a qualified buyer.

15.23.030 Contents of petition

The petition for appointment of a receiver must include:

1. a copy of the original violation notice or order, and
2. a verified pleading that:
 - a. avers that the required rehabilitation, demolition , or sale has not been completed, and
 - b. identifies and states the qualifications of the proposed receiver, if other than the housing official.

15.23.040 Named respondents

The petition for appointment of receiver must name as respondents:

1. the owner of the property,
2. any mortgagee or lienholder, and
3. the plaintiff in any proceeding that was timely filed under State Tax-Property Article § 14-833 {“Complaints to foreclose right of redemption”} and for which the time for securing a decree of foreclosure has not yet expired.

15.23.050 Effect of failure to name plaintiff

Failure to name a person described in § 15.23.040(3) does not prevent the action from going forward, but does prevent the receiver’s lien for expenses incurred in rehabilitating the vacant structure, demolishing the vacant structure, or selling the vacant structure and/or property from having priority over that person’s lien interest.

15.23.060 Filing with the Circuit Court

A notice of the proceeding, together with a copy of the violation notice or order, must be filed with the Circuit Court for Wicomico County.

15.23.070 Notice to judgment creditors and lien holders

Within 10 days after filing the petition, the housing official must give notice of the pendency and nature of the proceedings by regular and certified mail to the last-known addresses of all judgment creditors and lien holders with a recorded interest in the vacant structure and/or property.

15.23.080 Intervention

Within 30 days of the date on which the notice was mailed, a judgment creditor or lien holder may apply to intervene in the proceeding and request to be appointed under § 15.23.100.

15.23.090 Effect of failure to give notice

Failure to give any required notice to any interested person under this chapter does not prevent the action from going forward, but does prevent the receiver's lien for expenses incurred in rehabilitating the vacant structure, demolishing the vacant structure, or selling the vacant structure and/or property from having priority over that person's lien interest.

15.23.100 Appointment of owner, etc., instead of receiver

Instead of appointing a receiver to rehabilitate a vacant structure or to sell a vacant structure and/or property, the court may permit an owner, mortgagee, or other person with an interest in the structure to rehabilitate, demolish or sell it, if that person:

1. demonstrates ability to complete the rehabilitation or demolition within a reasonable time,
2. agrees to comply with a specified schedule for rehabilitation or demolition, and
3. posts bond, in an amount determined by the court, as security for performance of the required work in compliance with the specified schedule.

15.23.110 Application to dismiss owner

If it appears to the petitioner that the person appointed is not proceeding with due diligence or in compliance with the court-ordered schedule, the petitioner may apply to the court for immediate revocation of that person's appointment and for appointment of a receiver. The bond posted under this section must then be applied to the subsequently appointed receiver's expenses in rehabilitating the vacant structure, demolishing the vacant structure, or selling the vacant structure and/or property.

15.23.120 Appointment of receiver

If no qualified person with an ownership interest requests appointment to rehabilitate or demolish the vacant structure, or sell the vacant structure and/or property or if an appointee is dismissed, a receiver of the property on which the vacant structure is located for the purpose of rehabilitating and managing the vacant structure, demolishing the vacant structure, or selling the vacant structure and/or property to a qualified buyer shall be appointed.

15.23.130 Parties to receivership petition divested of authority

On appointment of a receiver to rehabilitate the vacant structure, demolish the vacant structure, or sell the vacant structure and/or property, all parties to the receivership petition are divested of any authority to act in furtherance of those goals.

15.23.140 Penalties

Any party who takes any step to rehabilitate the vacant structure, demolish the vacant structure, or sell the vacant structure and/or property is subject to the penalties for contempt.

15.23.150 Powers of receiver appointed to rehabilitate or demolish

A receiver appointed to rehabilitate or demolish a vacant structure, in addition to all necessary and customary powers, has the right of possession with authority to:

1. contract for necessary labor and supplies for rehabilitation or demolition,
2. borrow money for rehabilitation or demolition from an approved lending institution or through a government agency or program, using the receiver's lien against the property on which the vacant structure is located as security,
3. manage the property on which the vacant structure is located after rehabilitation, with all the powers of a landlord, for a period of up to 2 years and apply the rent received to current operating expenses and to repayment of outstanding rehabilitation expenses, and
4. foreclose on the receiver's lien or accept a deed in lieu of foreclosure.

15.23.160 Powers of receiver appointed to sell

A receiver appointed to sell a vacant structure and/or property, in addition to all necessary and customary powers, has authority to:

1. sell the property to the high bidder at public auction, following the same presale notice provisions that apply to a foreclosure, or
2. sell the property privately for fair market value if no party to the receivership objects to the amount and procedure.

15.23.170 Notice of auction

In the notice of public auction, it is sufficient to describe the property by a street address and by reference to the liber and folio number of the title deed recorded in the land records of Wicomico County.

15.23.180 Buyer qualifications

Before any sale, the applicants to bid in a public sale or the proposed buyer in a private sale must demonstrate the ability and experience needed to rehabilitate the vacant structure within a reasonable time.

15.23.190 Application of sale proceeds

After deducting the expenses of the sale, the amount of outstanding taxes and other government assessments, and the amount of the receiver's lien, the receiver must apply any remaining proceeds of the sale, first to the petitioner's costs and expenses, including reasonable attorney's fees, and then to the liens against the property on which the vacant structure is located in order of priority.

15.23.200 Tenure of receiver appointed to rehabilitate

The tenure of a receiver appointed to rehabilitate a vacant structure may extend no longer than 2 years after rehabilitation. Any time after rehabilitation, any party to the receivership may file a motion to dismiss the receiver on payment of the receiver's outstanding costs, fees, and expenses.

15.23.210 Final accounting

At the end of the receiver's tenure, the receiver must file a final accounting with the court.

15.23.220 Receiver's lien for costs, etc

Any costs or fees incurred by the receiver shall be assessed as a lien on the property and shall be entered on the tax records kept by the city treasurer and shall be collectible as are taxes. The lien has priority over all other liens and encumbrances, except taxes or other government assessments. The receiver must allow the petitioner's costs and expenses, including reasonable attorney's fees, to be paid to the extent that the proceeds of the sale permit.

15.23.230 Foreclosure of lien

A receiver may foreclose on the lien by a sale of the property at public auction, following one (1) public notice and notice to interested parties in the manner of a mortgage foreclosure. After deducting the expenses of the sale, the receiver must apply the proceeds of the sale to the liens against the property, in order of priority. In lieu of foreclosure, and only if the receiver has

rehabilitated the structure, an owner may pay the receiver's costs, fees, including attorney's fees, and expenses or may transfer all ownership in the property to either the receiver or an agreed-on third party for an amount agreed to by all parties to the receivership as being the structures' and/or property's fair market value.

15.23.240 Transfer on sale

Following court ratification of a sale, the receiver must sign a deed conveying title to the buyer, free and clear of all encumbrances.

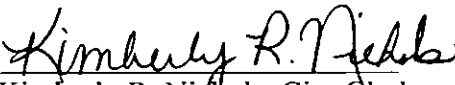
15.23.250 Dismissal


~~On~~ Following sale of the property, ~~is located,~~ the receiver must:

1. file with the court a final accounting, and
2. at the same time, file a motion with the court to dismiss the action.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that the Ordinance shall take effect upon final passage.


THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 28th day of May, 2013 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 10th day of June, 2013.


Kimberly R. Nichols, City Clerk


Jacob R. Day, President
Salisbury City Council

APPROVED BY ME, THIS 17th

day of June, 2013.


James Ireton, Jr., Mayor

Memo

To: John Pick
From: Tom Stevenson *TJS*
Date: May 30, 2013
Re: Receivership Ordinance (Alternative Language)

During the May 28, 2013 Council meeting, the city attorney suggested that alternative language be considered for the Receivership legislation. Attached, please find a revised ordinance that includes the recommended improvements. The revisions are limited to section 15.23.010 (Scope).

Unless you have any questions, please forward this information to the mayor and council.