Filed and recorded February 24, 2004.

# TOWN OF MOUNTAIN LAKE PARK

## ORDINANCE NO. 2003-17

## ENFORCEMENT ORDINANCE

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF MOUNTAIN LAKE PARK IMPLEMENTING THE ENFORCEMENT OF MUNICIPAL INFRACTIONS. PURSUANT TO SECTION 3 OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND (1996 REPLACEMENT VOLUME AND 1999 CUMULATIVE SUPPLEMENT) AND SECTION 26-17 OF THE CODE OF PUBLIC LOCAL LAWS OF GARRETT COUNTY, KNOWN AS THE MOUNTAIN LAKE PARK CHARTER; VIOLATION OF ANY ORDINANCE IS A MUNICIPAL INFRACTION UNLESS THE VIOLATION IS DECLARED TO BE A FELONY OR MISDEMEANOR BY STATE LAW; RESERVING THE RIGHT TO DESIGNATE INFRACTIONS AS MISDEMEANORS; AND REPEALING ALL OTHER ORDINANCES REGULATING MUNICIPAL INFRACTIONS**

**WHEREAS,** the Mayor and Town Council of Mountain Lake Park is authorized by Article 23A of the Maryland Annotated Code and by the Mountain Lake Park Town Charter to enact ordinances to protect the health, safety and welfare of residents of and visitors to Mountain Lake Park.

**NOW, THEREFORE, THE MAYOR AND TOWN COUNCIL OF MOUNTAIN LAKE PARK, DOES ORDAIN AND RESOLVE THE FOLLOWING:**

## ARTICLE ONE

### REPEAL OF PRIOR ORDINANCES AND RESOLUTIONS

Ordinance No. 2003-1 which was, enacted and adopted by the Mayor and Town Council of Mountain Lake Park on May 28, 2003, and all other ordinances and resolutions regulating municipal infractions are hereby repealed.

## ARTICLE TWO

### DEFINITIONS

Section 1. "Person" shall mean any natural person, firm, partnership, association, corporation or organization of any kind.

Section 2. "Town" shall mean the Town of Mountain Lake Park, a municipal corporation organized under the laws of the State of Maryland, and includes the Mayor and Town Council of Mountain Lake Park.



Doc 5

## ARTICLE THREE

### INFRACTIONS

Section 1. When the Mayor or his or her authorized agent finds that after an investigation, a municipal infraction is believed to exist, the Mayor or his or her authorized agent shall deliver a citation or a warning to the property owner or other person or persons responsible for the municipal infraction.

Section 2. If the person is unable to be located personally, the Mayor or his or her authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of same to the person, which shall be sufficient for delivery.

Section 3. The Mayor's authorized agent or agents shall be appointed by the Mayor and approved by a majority vote of the Town Council.

## ARTICLE FOUR

### CITATION PROCEDURE

Section 1. The Mayor or his or her authorized agent will investigate whether a municipal infraction has occurred.

Section 2. If the Mayor or his or her authorized agent reasonably find that a municipal infraction has occurred, he or she will issue a warning to the person or persons responsible in the form and manner as outlined in Article Five, with a reasonable time stated to abate or to prevent future municipal infractions.

Section 3. If the municipal infraction continues or is allowed to occur after the reasonable time stated, the Mayor or his or her authorized agent will issue a citation to the person or persons responsible in the form and manner as outlined in Article Five.

Section 4. The Mayor or his or her authorized agent may issue a citation without the prior issue of a warning.

Section 5. Persons warned or issued a citation for a violation have no right to a hearing before the Mayor and Town Council or any board or commission of the Town.

## ARTICLE FIVE

### CITATION OR WARNING CONTENTS

Section 1. The name and address of the person charged (or warned).

Section 2. The nature of the violation.

Section 3. The location of the violation.

Section 4. The date(s) of the violation.

Section 5. The amount of the fine assessed (or possible assessment).

Section 6. The manner, location and time for which the fine may be paid (or violation corrected, if applicable).

Section 7. The person's right to stand trial for the violation (if applicable).

Section 8. A certification by the Mayor or his or her authorized agent attesting to the truth of the matters set forth.

## ARTICLE SIX

### PENALTIES

Section 1. The amount of the fine or penalty for a municipal infraction shall be determined from the Town's Resolution of Fines for Municipal Infractions.

Section 2. Each period of time, such as an hour or day, a violation is permitted to exist shall be considered a separate infraction.

Section 3. All fines are payable to the Town of Mountain Lake Park.

## ARTICLE SEVEN

### ELECTION TO STAND TRIAL

Section 1. A person who receives a citation may elect to stand trial for the offense by filing with the Mayor or his or her authorized agent a notice of intention to stand trial. The notice shall be given at least five days before the date of payment as set forth in the citation.

Section 2. On receipt of the notice of intention to stand trial, the Mayor or his or her authorized agent shall forward to the District Court for Garrett County, Maryland, a copy of the citation and the notice of intention to stand trial.

Section 3. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant and the Town of the trial date.

Section 4. All fines, penalties or forfeitures collected by the District Court for municipal infractions shall be remitted to the Town of Mountain Lake Park.

## ARTICLE EIGHT

### FAILURE TO PAY FINE

Section 1. If a person who receives a citation for an municipal infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trail, a formal notice of the infraction shall be sent to the person's last known address.

Section 2. If the citation is not satisfied within fifteen (15) days from the date of the notice, the person is liable for the fine specified on the citation.

Section 3. If after thirty-five (35) days, the citation is not satisfied, the Mayor or his or her authorized agent may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.

## ARTICLE NINE

### PROSECUTION

Section 1. In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Article 23A, Section 3(b)(8) through (15) of the Maryland code, including the power to abate any such infractions. However, the town may appoint an attorney to prosecute municipal infractions under this section.

Section 2. Adjudication of a municipal infraction under this section is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

## ARTICLE TEN

### ABATEMENT

Section 1. If a person is found by the District Court to have committed a municipal infraction, he or she shall be liable for the costs of the proceedings in the District Court.

Section 2. The Court may order the person to abate the infraction or enter an order permitting a municipality to abate any such infraction at the person's expense.

Section 3. If a municipality abates an infraction pursuant to an order of the District Court, the municipality shall present the defendant with a bill for the cost of abatement by:

(a). Regular mail to the defendant's last known address; or

(b). Any other means that are reasonably calculated to bring the bill to the defendant's attention.

Section 4. If the defendant does not pay the bill within 30 days after presentment, upon a motion of the municipality, the District Court shall enter a judgment against the defendant for the cost of the abatement.

## ARTICLE ELEVEN

### REDUCTION OR SUSPENSION

Depending on the circumstances of each case the Mayor or his or her authorized agent has the discretionary authority to reduce or suspend all or a portion of the fine.

## ARTICLE TWELVE

### MINORS

In the event the violator of any provision of this ordinance is a minor, the enforcement provisions shall apply with full force and effect upon the parent, parents, guardian, or other such person or persons directly responsible for the conduct of the minor.

## ARTICLE THIRTEEN

### SEPARABILITY

Section 1: It is the intention of the Mayor and Town Council of Mountain Lake Park that each separate provision of this Ordinance shall be deemed independent of all other provisions herein.

Section 2: It is further the intention of the Mayor and Town Council of Mountain Lake Park that if any provisions of this Ordinance be declared invalid or unconstitutional, all other provisions hereof shall remain valid and enforceable.

## ARTICLE FOURTEEN

### OTHER REMEDIES

Nothing contained in this ordinance shall prohibit or prevent the Town from seeking other legal remedies, such as injunction, criminal prosecution, or damages in a civil action pursuant to Section 3 of Article 23A or Section 7.01 of Article 66B, Annotated Code of Maryland as amended.

## ARTICLE FIFTEEN

### ENACTMENT

**IT IS HEREBY ORDAINED AND RESOLVED,** this ordinance shall be in full force and effect after introduction, advertising, public hearing, and approval as provided by law.

**BE IT FURTHER RESOLVED,** this ordinance shall be duly advertised in accordance with the Policy for the Adoption of Ordinances by the Mayor and Town Council of Mountain Lake Park, and a public hearing on this Ordinance shall be held on the 8th day of January, 2004, at 6:00 P. M., at the Town Hall located at 1007 Allegheny Drive, Mountain Lake Park, Maryland 21550.

**INTRODUCED** this 26th day of November, 2003.

**SECOND READING AND ADOPTION** this 8th day of January, 2004.

**AND BE IT FURTHER RESOLVED,** this Ordinance shall be effective as of January 8, 2004.

**THIS ORDINANCE IS SUBJECT TO REFERENDUM AS OUTLINED IN ARTICLE 23A, SECTIONS 11 THROUGH 17.**

**ATTEST:**

**Clerk/Treasurer**

**Councilmember**

**Councilmember**

**Councilmember**

**APPROVED:**

**Mayor**

**Councilmember**

**Councilmember**

**ORDINANCES & RESOLUTIONS**

Filed and Recorded February 24, 2004,

in O & R Record, Liber D.K.M., No. 004,

folio 803, one of the Records in the

Office of the Clerk of the Circuit Court

for Garrett County, Maryland, and compared

by:

David K Martin ,CLERK

# TOWN OF MOUNTAIN LAKE PARK
# ORDINANCE CHECKLIST
## ENFORCEMENT ORDINANCE

1. 11/26/03 Introduce proposed ordinance to governing body.
   (Constitutes first reading)

2. 12/4/03 & 12/11/03 Publish public hearing date and time and a fair summary of proposed ordinance for two week intervals. (This date must be set at least 6 days but not more that 60 days after introduction for hearing.)

3. 1/8/04 Conduct public hearing, second reading and adoption of Ordinance.

4. 1/8/04 Ordinance will become effective immediately upon adoption.

5. 2/17/03 Wait 40 days to allow time for petition to ordinance referendum.

6. 2/18/03 If no petition, is received, promptly register the ordinance with the county, Clerk of Courts.