

# MENACE PROPERTY: WHAT THE CITY CAN DO

Poorly maintained or abandoned properties can affect quality of life and property values in neighborhoods. As the Mississippi State Community Action Team's *First Impressions* program has demonstrated time and again, the proliferation of such properties can impair the perception of an entire community by visitors and residents alike. The upkeep and maintenance of properties matters.



Do municipal and county governments have the authority to clean “menace” properties? Yes. In fact, Mississippi State Code provides not only the authority to do so but the process to be followed.

One of our goals is to introduce to you the authority and formal process by which menace properties may be maintained. Another goal is to suggest strategies that may reduce the potential for conflict between local government and private landowners as efforts are made to improve the appearance of poorly-maintained properties.

## Local authority to clean up “menaces” on properties

Mississippi State Code grants counties and municipalities the authority to clean up, or have cleaned up, “menaces” on any parcel of land within the jurisdiction of the local government in question. Section 21-19-11 of the Mississippi Code establishes the authority and procedures to be followed by municipal governments. Section 19-5-105 establishes the authority and procedures to be followed by county governments. The Mississippi Code can be accessed via the Mississippi Secretary of State at the following Web site:

[www.sos.state.ms.us/ed\\_pubs/mscode/](http://www.sos.state.ms.us/ed_pubs/mscode/)

State law does not define menace, deferring instead to commonly-understood definitions of the term. Menace can be defined as something that represents a danger or threat.<sup>1</sup> Because menace is not precisely defined, state law gives local government some latitude in its assumption as to what constitutes a menace. The law does make reference to cutting weeds; filling failed cisterns; removing rubbish and debris, dilapidated buildings and fences, and outside toilets; and draining cesspools and standing water.

## The formal process in a nutshell

The following is an outline of the procedures to be followed and is offered for information purposes only. Officials must consult the laws for specific procedural details prior to taking action.

1. The governing body of a county or municipality (i.e., Board of Supervisors, Board of Aldermen, City Council, etc.) can hold a hearing to determine whether or not a menace exists on a property. The identification of the alleged menace can be made by the government itself, or it can respond to a petition from a majority of residents within a specific proximity of the menace.
2. Formal notice is to be given to the owner of the property where the menace is alleged to exist. The laws define the specific notification processes, including the time of notice.

3. The hearing is held. If, as a result of the hearing, a menace is found to exist and the property is deemed to be in need of cleaning, the governing body can order that the owner clean the property, or it can proceed to have the property cleaned.

4. If the governing body has the property cleaned it may, at its next regular meeting, assess the owner of the property the actual cost of the cleaning. The laws establish cost limits associated with the cleaning of a property, the frequency with which a property may be cleaned, and the means by which the public debt owed by the property owner may be collected.

## Questions about implementing the law?

The Office of the Mississippi Attorney General has a division that addresses questions, and issues opinions, about the application of state law by county and municipal governments. Contact information, and legal opinions, can be found on the Attorney General's Web site at the following:

[www.ago.state.ms.us/index.php/content/opinions](http://www.ago.state.ms.us/index.php/content/opinions)

You can also call the Opinions Division at 601.359.3838 or 601.359.3167.

## Questions about implementing the law?

Forcing property owners to clean up their properties can be touchy. Officials are likely to be asked: What authority do you have to make me clean up my property? Why was my property chosen? Why aren't you addressing other properties?

Planning a community-wide cleanup effort, and following an orderly process based upon the plan, can produce better outcomes, minimize conflict, and reduce costs by motivating property owners to maintain properties without formal action.

## We suggest the following.

**Involve** the public. Involving the public in the process of creating a community-wide cleanup plan is a great way to educate the public about the relationship between property maintenance and quality of life. It also gives the public some "ownership" of the effort and an understanding of the process and procedures the government will follow.

**Define** what constitutes a "menace" in your community. State law gives local governments some latitude in determining what constitutes a menace. Use this latitude to establish some basic standards. For instance, how tall must lawns get before they are considered overgrown? Where might appliances and inoperable vehicles be stored on a property, if at all? What constitutes rubbish and debris? Such guidelines provide a stronger basis for action and let property owners know what is and is not acceptable.

**Prioritize.** Involve the public in the identification of what areas should be cleaned up first. If you have participated in MSCAT's *First Impressions*, you have a great starting point. Generally those places that are central to a neighborhood's or community's identity should be given priority such as town centers or points of entry.

**Be systematic.** Having established cleanup priorities, establish a schedule for neighborhood review and action. This establishes a timetable for the community as a whole and may prompt independent action by property owners.

**Facilitate** the cleanup process before taking legal action. Work with waste management services to help property owners clean up on their own initiative before formal action is taken. Facilitating the removal of rubbish and debris by providing specific curb pickup days may give property owners the nudge they need. Work with auto recyclers on a program to help property owners dispose of their inoperable vehicles. Encourage neighborhood cleanup days.

**Public property must be maintained, too!** Often it is not just private property that is the problem. In some communities, government-maintained properties are primary contributors to the problem. Enforcement actions against private property owners will likely be much better received if the local government gets its own house in order. Cleanup of government properties should be part of the plan, including public rights-of-way along roads and streets.



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<sup>1</sup> From Merriam-Webster's Online Dictionary  
<http://www.merriam-webster.com/dictionary/menace>