

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend § 2902 of Title 10 of the Delaware Code by creating a new subsection (f) that states:

“(f) Any summons issued by a New Castle County code enforcement constable may provide that, in lieu of appearing in court, the offender may correct the offense and remit a voluntary assessment of up to \$200 for each offense against any ordinance pertaining to building, housing, sanitation, zoning or public health code of New Castle County. The summons may provide that each day such violation continues shall constitute a separate offense.”

Section 2. Amend § 5917(a) of Title 11 of the Delaware Code by adding the words "and in New Castle County," in the second paragraph, first sentence, after the words "50,000 people".

Section 3. Amend subsection (a) (1) (g) of § 2901 of Title 25 of the Delaware Code by adding the words "or maintenance" after the word "improvements" and adding the words "or property" after the word "buildings".

Section 4. Amend subsection (a) (1) of § 2901 of Title 25 of the Delaware Code by inserting a new subsection (a) (1) (k) as follows:

“(a) (1) (k) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash or other waste material done through public expenditure.”

Section 5. Amend subsection (a) (3) of § 2901 of Title 25 of the Delaware Code by inserting the phrase "and (a) (1) k." in the second sentence, following the phrase "subsections (a) (1) a. through (a) (1) i. ".

Section 6. Amend Title 9 of the Delaware Code by deleting Chapter 29 in its entirety and adding a new Chapter 29 to read as follows:

"CHAPTER 29. PROPERTY MAINTENANCE

§ 2901. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

(1) ‘Administrative Tribunal’ shall mean a Show Cause Hearing before the Code Official for New Castle County.

(2) ‘Building’ shall mean a structure having a roof, and intended to shelter persons, animals, property or business activity. The word building shall be construed to include parts thereof and all equipment therein.

(3) ‘County Council’ shall mean the County Council for New Castle County.

(4) 'Department of Land Use' shall mean the New Castle County Department of Land Use.

(5) 'Person Responsible' shall mean the owner and any other person(s) who have control over the property or are responsible for the violation.

(6) 'Property' shall mean a lot, plot or parcel of land, including any structures thereon.

(7) 'Structure' shall mean a manmade object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

§ 2902. Promulgation of property maintenance code.

The County Council, in order to provide for the health, safety and welfare of the citizens of New Castle County, shall promulgate rules and regulations to be known as the New Castle County Property Maintenance Code, regulating and governing the condition and maintenance of all property, structures and buildings to eliminate or prevent unsafe, unhealthy, unsanitary or substandard conditions. Said rules and regulations shall provide standards for: the condition and maintenance of property, structures and buildings; supplied utilities, facilities and other physical things and conditions essential to ensure that property, structures and buildings are safe, sanitary and fit for occupation and use and do not adversely affect the welfare of the public; condemnation of structures and buildings unfit for human occupancy and use; and, the demolition of structures and buildings unfit for human occupancy and use.

§ 2903. Department of Land Use; administration and enforcement.

The Department of Land Use shall have the power and authority to administer and enforce all provisions of the New Castle County Property Maintenance Code as promulgated by the County Council except as otherwise provided for by this Chapter or by rule or regulation adopted by County Council.

§ 2904. Removal of weeds, grasses, refuse, rubbish, trash or other waste material.

No person shall permit weeds or grass to grow, or refuse, rubbish, trash or other waste material to be placed or to accumulate upon, land or improved premises so as to create a nuisance detrimental to adjoining properties or the health or safety of other persons.

§ 2905. Fees.

The County Council may adopt rules and regulations providing for the charge of reasonable fees for the administration and enforcement of the New Castle County Property Maintenance Code, including fees for the inspection and reinspection of properties for which a notice of violation has been duly issued.

§ 2906. Violation of regulations or chapter; notices and orders.

(a) For the purpose of enforcing compliance with the provisions of the New Castle

Property Maintenance Code, and removing illegal, unhealthy or unsafe conditions, the Department of Land Use shall issue such rules, notices or orders as may be necessary.

(b) Whenever the Department of Land Use is satisfied that a person responsible has committed an offense against the Property Maintenance Code or other provision of the New Castle County Code that constitutes a threat to the public health, safety or welfare, or of an order of the Department of Land Use, the Department of Land Use may serve a written notice or order upon the person responsible, therefore, directing discontinuance of each illegal action and the remedying of the condition which is in violation of the provisions, regulations or requirements as adopted by the County Council or by order of the Department of Land Use.

(c) No person, having been served with such a notice or order, shall fail to comply with the requirements thereof within the time stated therein or within 15 days if no time is provided, unless the Department of Land Use determines that such violation cannot be cured within such time and clearly delineates additional time for compliance.

§ 2907. Abatement; Creation of tax lien.

(a) If after due notice, either actual or constructive, is given by the Department of Land Use to the person responsible for the property, and where such person has had the opportunity to be heard by an administrative tribunal or a court of competent jurisdiction, such person fails to comply with the notice or order and the illegal action or condition continues to exist, the Department of Land Use may cause such violation to be removed, corrected, abated or otherwise made safe and sanitary. The Department of Land Use may incur any expense of razing, demolishing, removing or repairing unsafe or illegal buildings and structures, and may incur any expense necessary or incidental to abating violations of the Property Maintenance Code or other provisions of the New Castle County Code that constitute a threat to the public health, safety or welfare and to provide for the sanitary condition, safety and security of the property, structure or building.

(b) All expenses incurred by the Department of Land Use pursuant to this section and all fines and penalties associated with violations of the Property Maintenance Code shall be a tax lien on the parcel of real property that the expense is incurred upon or which is the subject of the notice or order. Upon certification of a tax lien by the Department of Land Use, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes, and paid to New Castle County, when collected.

(c) New Castle County may also maintain a civil action for the recovery thereof against such person responsible.

§ 2908. Penalties.

The person responsible for a building, structure, or premises, where anything is in violation of this chapter or the rules or requirements as promulgated by the County Council, or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use, or in violation of an order of the Department of Land Use, shall be fined in accordance with a schedule of fees and penalties to be established by the County Council. The maximum fine per violation shall not exceed the

provisions found in § 5917 of Title 11. Each and every day such violation continues shall constitute a separate offense.

§ 2909. Additional remedies.

The imposition of the penalties or enforcement prescribed in this Chapter or by the rules or requirements as promulgated by the County Council shall not preclude the Attorney General, County Attorney or Code Enforcement Constable from instituting appropriate actions or proceedings to prevent, enjoin or abate any continuing violation of this chapter.

§ 2910. Exceptions.

This chapter shall not apply to properties, buildings or structures located within any incorporated city or town in New Castle County unless the responsibility for the local service function has been duly transferred to New Castle County."

Approved July 21, 2005



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