



NEW CASTLE COUNTY INSTANT TICKETING PROCESS HELPS COUNTY TO PROTECT COMMUNITY FROM BLIGHTED PROPERTIES



WHAT'LL GET YOU A TICKET? *TOP 10 VIOLATIONS *

- High grass and weeds
- Accessory structures (sheds, fences, etc.) in poor condition
- Inoperable and/or unregistered vehicles
- Parking on grass
- Oversized vehicles
- Outside storage of household items
- Not having trash in proper waste container
- Accumulation of rubbish, garbage or debris
- Unsanitary swimming pools, or empty pools not covered
- Overgrown shrubs or trees that extend beyond sidewalk or right of way.

To report a property code violation, call the Department of Land Use at 395-5555.

Instead of a protracted process that drags offending property owners through the court system, New Castle County now issues an "instant ticket" warning letter. The property owner has 10 days to fix the problem or face an automatic \$50 fine.

SYNOPSIS:

The Ordinance amended the New Castle County Property Maintenance Code, Chapter 7, of the *New Castle County Code* with regard to administrative enforcement of health, safety, and sanitation matters. The amendments allow the Office of Code Enforcement to issue citations imposing civil penalties against property owners who fail to comply with the identified health, safety, and sanitation sections of the Property Maintenance Code. In addition, the amendments are intended to permit any unpaid amounts of these civil penalties to be added to the County property tax billing for the property that was the subject of the citation, and for the unpaid civil penalties to give rise to a lien on such property as authorized by 9 *Del. C.* § 2905 and 25 *Del. C.* § 2901. The appeal procedure identified by this Ordinance would require that appeals from civil penalties be sent in writing to the Department of Land Use within twenty-one (21) business days after the date of the citation. In order to appeal, a person must send a detailed written explanation of the grounds for appeal, along with payment in full of the citation. The Code Official, or his or her designee, must issue a written opinion deciding the appeal within forty-five (45) calendar days of receipt of the written appeal. In the event that the penalty is reversed, revoked, vacated, or decreased in amount, the appellant will be reimbursed for the portion of the civil penalty vacated or decreased. The decision of the Code Official may be appealed to the Board of License, Inspection, and Review, pursuant to *Section PM 106.3.15, Administrative Appeals*.

Introduced by: Joseph M. Reda
Co-sponsors: John J. Cartier
Timothy P. Sheldon
David L. Tackett

Date of introduction: June 10, 2008

SUBSTITUTE NO. 1 TO ORDINANCE NO. 08-073

**TO AMEND *NEW CASTLE COUNTY CODE* CHAPTER 7 (ALSO KNOWN AS
THE “PROPERTY MAINTENANCE CODE”)**

WHEREAS, New Castle County adopted a new *Property Maintenance Code* which became effective on June 7, 2005; and

WHEREAS, New Castle County believes it is in the best interests of County citizens to update and improve the *Property Maintenance Code* as warranted; and

WHEREAS, Code provisions recognize that litter, weeds, garbage, rubbish and other offensive materials which are placed and/or permitted to remain on private and public property create an eye-sore, and pose a threat to public health and safety; and

WHEREAS, New Castle County believes that criminal penalties thus far have not been sufficiently effective in deterring violations of the *Property Maintenance Code* relating to health and sanitation and the storage and disposal of garbage and rubbish; and

WHEREAS, the average property maintenance case is scheduled for court approximately six months after criminal charges are filed by the Office of Code Enforcement; and

WHEREAS, subjecting property owners to civil penalties will allow for quicker resolution of code enforcement cases, have a greater deterrent effect on this unlawful conduct, and also eliminate the costs associated with criminally prosecuting offenders; and

WHEREAS, any unpaid amounts of civil penalties for failure to comply with the *Property Maintenance Code* provisions may be added to the County’s property tax billing for the property that was the subject of the citation and unpaid civil penalties will give rise to a lien on such property, as permitted under 9 *Del. C.* § 2905 and 25 *Del. C.* § 2901; and

WHEREAS, New Castle County intends to create a new appellate procedure applicable to the civil penalties imposed to make the appellate procedure more efficient and ensure the uniform and proper application of these provisions; and

WHEREAS, New Castle County Council finds that the provisions of this Ordinance are rationally and reasonably related to legitimate government interests including, but not limited to, the protection and preservation of the public health, safety, prosperity, general welfare and quality of life.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle County Code Chapter 7 (“Property Maintenance Code”), Section 7.01.002 (“Amendments to the International Property Maintenance Code”), Chapter 1 (“Administration”) is hereby amended by the deletion of the stricken text and the addition of the underlined text as set forth below:*

CHAPTER 1. ADMINISTRATION

SECTION PM 106. VIOLATIONS

Section PM 106.3.1.1.3, Exceptions. ...

Section PM 106.3.1.2, Instant Ticketing For Common Violations. Pursuant to Title 9 Chapter 29 and Title 25 Chapter 29 of the Delaware Code, the Code Official shall have the authority to issue instant ticket(s) to the owner of a property, regardless of whether the owner actually resides upon the property, including any vacant lots, for violations of Sections PM 302.4, Prohibited growth of weeds and grass; PM 302.7, Accessory Structures; PM 302.8.3, Inoperable or unregistered vehicles; PM 302.8.4, Oversized vehicle parking; PM 302.8.6, Parking of vehicles; PM 302.10, Outside storage of household items; PM 302.12, Responsibility to keep shrubs and trees trimmed; PM 303.1, Swimming pools; PM 302.11 Outside Storage of debris; PM 307.1, Accumulation; and PM 307.2, Disposal of rubbish.

Section PM 106.3.1.2.1, Procedure. Whenever the Office of Code Enforcement receives a complaint that there has been a violation(s) of the above-referenced sections, a notice of alleged violation(s) shall be given to the owner of the property. The owner shall be responsible for correcting such violation(s) within ten (10) calendar days. If the Code Official determines that the violation(s) remains after the tenth (10th) calendar day, the owner of the property on which such non-compliance exists shall be subject to, and liable for, a civil penalty in the amount of \$50.00. This civil penalty shall double if not paid within thirty (30) calendar days from the date of the citation. In no case shall the Code Official be required by this Section to provide a violation notice within a twelve (12) month period to any owner previously provided notice pursuant to this Section where the same Code violation exists.

Section PM 106.3.1.2.2, Citation. Any citation issued for failure to comply with any provision identified in Section PM 106.3.1.2 shall be mailed to the owner of the property that is the subject of the citation. Pursuant to 9 Del. C. 2907 and 25 Del. C. § 2901, civil penalties may be added to the County property tax billings for the property which was the subject of the citation. Each twenty-four (24) hour period that the condition giving rise to the initial citation continues may be subject to a separate citation and an additional civil penalty in the amount of \$50.00. Additional civil penalties shall also double if not paid within thirty (30) calendar days from the date of the respective citation.

Section PM 106.3.1.2.3, State of mind. It shall be unnecessary to prove the violator's state of mind with regard to the failure to comply with any provision of this Section, as the legislative purpose is to impose strict liability for such non-compliance.

Section PM 106.3.1.2.4, Appeals. The owner of a property aggrieved by any civil penalty imposed pursuant to this Section may appeal to the Department of Land Use Code Official by sending a detailed written explanation of the grounds for the appeal, along with payment in full of the civil penalty, to the Code Official within twenty-one (21) business days of the date of the citation. The Code Official shall forward the payment to the Office of Finance, which will credit such payment. The Code Official shall issue a written decision affirming, modifying, reversing, revoking or vacating the civil penalty within forty-five (45) calendar days of receipt of the written explanation of the grounds for the appeal. In the event the civil penalty is reversed, revoked, vacated or decreased in amount, the appellant shall be reimbursed for payment of the portion of the civil penalty vacated or decreased. Each citation received must be appealed separately. The decision of the Code Official must be appealed in accordance with Section PM 106.3.1.5, Administrative Appeals.

Section PM 106.3.1.23, Pre-deprivation show cause hearing. Except as provided in Section PM 106.3.1.2.1, if such violations...

Section PM 106.3.1.34, Costs, The owner...

Section PM 106.3.1.45, Administrative penalty provisions, The following...

Section PM 106.3.1.45.1, Administrative fines, Notwithstanding any other...

Section PM 106.3.1.45.2, Institution of remedial action, The County may...

Section PM 106.3.1.56, Administrative appeal.

Section PM 106.3.1.56.1, Appeal to Board of License, Inspection and Review, Any person aggrieved...

Section PM 106.3.1.56.2, Time, All appeals shall...

Section PM 106.3.1.56.3, On record, Appeals shall be heard...

Section PM 106.3.1.56.4, Written decision, The Board of License, Inspection and Review shall...

Section PM 106.3.1.56.5, Actions that can be taken, The Board of License, Inspection and Review may...

Section PM 106.3.1.56.6, Stay, If a stay of the action...

Section PM 106.3.1.56.7, Fee, The fee for filing...

Section PM 106.3.1.56.8, Writ of certiorari, An aggrieved party may...

Section PM 106.3.2, Criminal enforcement, Any person violating...

...

Section 2. Inconsistent ordinances and resolutions repealed. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith are hereby repealed upon the effective date of this ordinance.

Section 3. Continuation of existing ordinances and resolutions. The sections appearing in this ordinance, so far as they are in substance the same as those ordinances and resolutions adopted and included in the *New Castle County Code*, shall be considered as continuations thereof and not as new enactments.

Section 4. Continuation of existing institutions, rights and liabilities. The revisions of prior ordinances, resolutions, rules, and regulations, provided for in this ordinance, shall not affect any act done, or any cause of action accruing or accrued or established, or any suit or proceeding and/or commenced civil action, nor any plea, defense, bar or matter existing before the time when such revisions shall take effect; but the proceedings in every such case shall conform with this ordinance to the extent applicable.

All the provisions of ordinances, resolutions, rules and regulations revised by this ordinance shall be deemed to have remained in force from the times when they began to take effect, so far as they may apply to any department, agency, office or trust or of any transaction or event of any limitation or any right or obligation or the construction of any

contract already affected by such ordinances, resolutions, rules, and regulations, notwithstanding the revisions of such provisions.

No offense committed and no penalty or forfeiture incurred, under any of the ordinances, resolutions, rules and regulations revised by this ordinance and before the time when such revisions shall take effect shall be affected by such revisions.

No such action or prosecution, pending on the effective date of the revisions provided in this ordinance, for any offense committed or for the recovery of any penalty or forfeiture incurred under any of the ordinances, resolutions, rules and regulations revised herein shall be abated or affected by such revisions, except that the proceedings in such action or prosecution shall conform with this ordinance if applicable.

The provisions of this ordinance shall not be construed to abolish or impair existing remedies of New Castle County or its officers or agencies relating to the remediation of any dangerous, unsafe, or unsanitary condition.

Section 5. Severability. It is hereby declared to be the intention of the County Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance. If any provision of this ordinance is found to be unconstitutional or void, the applicable former ordinance provisions shall become effective and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 6. Other laws. The provisions of this Chapter shall not be deemed to nullify any provisions of local, state, or federal law except as stated in Section 1 above.

Section 7. Effective date. This ordinance shall become effective on July 1, 2008 or thereafter upon its adoption by County Council and approval by the County Executive or as otherwise provided in 9 *Del. C.* §1156.

Approved on:

Adopted by County Council of
New Castle County on:

County Executive

President of County Council of
New Castle County

SYNOPSIS:

This Ordinance amends the New Castle County Property Maintenance Code, Chapter 7, of the *New Castle County Code* with regard to administrative enforcement of health, safety, and sanitation matters. The amendments allow the Office of Code Enforcement to issue citations imposing civil penalties against property owners who fail to comply with the identified health, safety, and sanitation sections of the Property Maintenance Code. In addition, the amendments are intended to permit any unpaid amounts of these civil penalties to be added to the County property tax billing for the property that was the subject of the citation, and for the unpaid civil penalties to give rise to a lien on such property as authorized by 9 *Del. C.* § 2905 and 25 *Del. C.* § 2901. The appeal procedure identified by this Ordinance would require that appeals from civil penalties be sent in writing to the Department of Land Use within twenty-one (21) business days after the date of the citation. In order to appeal, a person must send a detailed written explanation of the grounds for appeal, along with payment in full of the citation. The Code Official, or his or her designee, must issue a written opinion deciding the appeal within forty-five (45) calendar days of receipt of the written appeal. In the event that the penalty is reversed, revoked, vacated, or decreased in amount, the appellant will be reimbursed for the portion of the civil penalty vacated or decreased. The decision of the Code Official may be appealed to the Board of License, Inspection, and Review, pursuant to *Section PM 106.3.15, Administrative Appeals*.

FISCAL NOTE: Conservatively, assuming tickets are issued to 20% of the total of violations in the above referenced ten categories (i.e. 4,608 in 2007), a minimum payment of \$50 per violation, and an anticipated collection rate of 40%, the resulting revenue in the first year will be approximately \$92,160. Expenses including postage, supplies, recording and bank fees are estimated in the first year at \$54,570. The net result in the first year from this program is estimated at \$37,590. The remaining \$276,500 (60% uncollected fines) will be added directly to the property tax bill for collection. This program will also have many indirect benefits to Code Enforcement.

**NEW CASTLE COUNTY
OFFICE OF CODE ENFORCEMENT**

INSTANT TICKET APPEAL FORM

Date ___/___/___ Case Number _____
Property Address _____
Citations Issued _____

Complete appropriate box

IDENTIFICATION

Applicant Name _____ Phone # (____) - ____ - ____
Street _____ City _____ State _____

I, the undersigned, am the owner or responsible party for the above mentioned property.

Applicant Signature _____ **Date** ___ / ___ / ___

The owner of a property aggrieved by any civil penalty imposed pursuant to Chapter 7 of the New Castle County Code, may appeal to the Department of Land Use Code Official by sending a detailed written explanation of the grounds for the appeal, along **with payment in full of the civil penalty**.

The appeal **must be received** by the Code Official **within twenty-on (21) business days** of the date of the citation.

▪ Reason for appeal: _____

▪ Additional information or extenuating circumstances _____

--Attach additional information and/or photos as needed--

In the event the civil penalty is reversed, revoked, vacated or decreased in amount, the appellant shall be reimbursed for payment of the portion of the civil penalty vacated or decreased. Each citation received must be appealed separately. The decision of the Code Official must be appealed to the Board of Licenses Inspection and Review in accordance with Section PM 106.3.1.5.

Mail to: Department of Land Use Hearing Officer- 87 Reads Way New Castle, De 19720