

ORDINANCE NO. 622

Introduced by: Councilman Porter

AN ORDINANCE AMENDING THE TOWN OF DENTON PROPERTY MAINTENANCE CODE PROVISIONS CONTAINED IN CHAPTER 94 OF THE DENTON TOWN CODE WITH RESPECT TO PROPERTY MAINTENANCE

WHEREAS, Md. Code Ann. Art. 23A § 2(b)(5) confers upon municipalities the power to make reasonable regulations concerning buildings, including the adoption of a building code; and

WHEREAS, by Ordinance No. 565, the Denton Town Council adopted the 2006 Edition of the International Property Maintenance Code, which is incorporated into the Denton Town Code, Chapter 94;

WHEREAS, the Denton Town Council has determined that it is desirable and in the public interest to adopt the 2009 Edition of the International Property Maintenance Code, including Appendix A, "Boarding Standards", attached hereto, as amended by this Ordinance, as the Town of Denton Property Maintenance Code, which sets forth regulations governing the conditions and maintenance of all residential, nonresidential, and commercial properties, buildings and structures to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided and to enact as amended herein, except as amended hereby, all provisions of Chapter 94 will remain in effect.

NOW THEREFORE, the Denton Town Council hereby ordains as follows:

SECTION 1: The Denton Town Council hereby adopts the 2009 Edition of the International Property Maintenance Code a copy of which is attached hereto, as amended by this chapter, which will be incorporated into the Denton Town Code, Chapter 94 as follows:

~~§ 94-1. Adoption of standards by reference.~~

~~The 2006 Edition of International Property Maintenance Code, as published by the International Code Council, Inc., which is kept and maintained by the Town Clerk, be and is hereby adopted as the "Town of Denton Property Maintenance Code" (sometimes hereinafter referred to as the "Property Maintenance Code"). All of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted and made a part hereof as if fully set out in this chapter with the additions, insertions, deletions and changes, if any, prescribed in §94-2 of this chapter.~~

§ 94-1. Adoption of standards by reference.

The 2009 Edition of International Property Maintenance Code, as published by the International Code Council, Inc., which is kept and maintained by the Town Clerk, be and is hereby adopted as the “Town of Denton Property Maintenance Code” (sometimes hereinafter referred to as the “Property Maintenance Code”). All of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, prescribed in Section 94-2 of this chapter.

§ 94-2 The following sections of the International Property Maintenance Code are hereby amended and revised as follows.

§ 94-2.1 General Amendments

- A. Substitute “Town of Denton” for the phrase “Name of Jurisdiction” wherever it appears in the codes.*
- B. Substitute “The Town of Denton Director of Planning or his designee” for phrases “chief appointing authority of the jurisdiction” and “chief authority” wherever they appear in the codes.*
- C. Substitute “Denton Planning and Codes” for the term “Department of Building Safety” wherever it appears in the codes.*
- D. Substitute the National Standard Plumbing Code as adopted by the State of Maryland Building Performance Standards (COMAR 05.02.07) for all references to plumbing code.*
- E. Substitute the International Mechanical Code with local amendment and as amended and adopted by the State of Maryland Building Performance Standards (COMAR 05.02.07) for all references to mechanical code.*
- F. Substitute local amendment to the Town of Denton Fire Prevention Code, Chapter 56 of the Denton Town Code, and the provisions of the Maryland Fire Prevention Code (COMAR 29.06.01), including NFPA101 Life Safety Code, as adopted by the State of Maryland for all references to fire code.*
- G. Substitute the Maryland Accessibility Code as adopted by the State of Maryland (COMAR 05.02.02) for all references to accessibility code.*
- H. Discrepancies and Inconsistencies. In the event of inconsistencies or discrepancies between the provisions of these articles and any Town Code, the more stringent shall govern. The building official shall have the authority to make determination of or act on matters where there is a discrepancy or conflict with this and any another section of the Town Code.*

CHAPTER 1
SCOPE AND ADMINISTRATION

SECTION 101
GENERAL

~~101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards to premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire or other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties. Notwithstanding anything to the contrary herein, the provisions of the Property Maintenance Code that govern the interior condition of a residential structure shall not apply to an owner-occupied housing unit.~~

SECTION 104
DUTIES AND POWERS OF THE CODE OFFICIAL

104.1.1 General. The code official or his designee is hereby authorized to enforce the provisions of Chapter 98, Residential Rental Housing, of the Town Code.

104.2.1 Inspections. In addition to the provisions of Section 104 and elsewhere in the Town Code, the code official or his designee shall make all of the inspections required by the provisions of Chapter 98, Residential Rental Housing, of the Town Code.

SECTION 106
VIOLATIONS

106.2 Notice of violation. The code official or his designee is authorized to serve a notice of violation, notice to remedy, or other order on the person responsible or the property owner for any violation of this code. The building official or his designee shall serve notice in accordance with Section 107 of the Property Maintenance Code, and as amended in Section 107 Notices and Orders in this chapter.

~~Section 106.2 Notice of violation. The code official shall serve a notice of violation or order in accordance with Section 107.~~

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a municipal infraction, and the violation shall be deemed a strict liability offense. The code official or his designee is authorized to issue a civil municipal citation upon first becoming aware of

the violation or violations and to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or violations, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. The Town Attorney is authorized to prosecute a violation of any provision of this code.

~~106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a municipal infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. The Town Attorney is authorized to prosecute a violation of any provision of this code.~~

106.4 Violation penalties. Violation of this code shall be a municipal infraction subject to an initial fine of \$100 for the first infraction and up to \$200 per day for each subsequent infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Fines related to severity of violation shall be in accordance with Section 106.4.1 and fines related to repeat or continuous violations shall be in accordance with Section 106.4.2 of this chapter. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation or in the alternative to permit the Town to abate the violation at the defendant's expense. Enforcement of this section shall be in accordance with Article 23A, §3(b), of the Maryland Annotated Code, as amended from time to time.

~~106.4 Violation penalties. Violation of this code shall be a municipal infraction subject to a fine of \$100 for the first infraction and up to \$200 per day for each subsequent infraction. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation or in the alternative to permit the Town to abate the violation at the defendant's expense. Enforcement of this section shall be in accordance with Article 23A, § 3(b), of the Maryland Annotated Code, as amended from time to time.~~

106.4.1 Severity of Violation. When in the opinion of the building official or his designee a violation of this code constitutes imminent danger to life as defined in Section 109.1 of the Property Maintenance Code, the violation is subject to a fine no less than five hundred dollars (\$500) for the first infraction, and up to one thousand (\$1,000) per day for each subsequent infraction. Each day that a violation continues after due notice has been served shall constitute a separate

offense.

106.4.2 Repeat or Continuous Violations. *For the purposes of this section, repeat or continuous violations are defined as the same violation or violations of this code occurring on three (3) separate occurrences in a twelve month period. Repeat or continuous violations are subject to fine of no less than one hundred dollars (\$100) for the first notice, five hundred dollars (\$500) for the second notice, seven hundred and fifty dollars (\$750) for the third notice, and one thousand dollars (\$1,000) for each notice thereafter.*

~~106.5 Abatement of violation. The imposition of penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.~~

SECTION 107 NOTICES AND ORDERS

107.2 Form

6. "Include a statement of the right of the Town to file a lien in accordance with Section 106.3 of the Property Maintenance Code and Section 106.6 of this chapter."

~~107.2 (6) Include a statement of the right to file a lien in accordance with Section 106.3.~~

107.3 Method of Service.

4. The code official or his designee shall deliver the notice or citation to the building owner, whether the owner is a corporation, business, or retains vested interest in the building or property, and others responsible for the violation or infraction immediately upon observing the violation or violations. If the code official or his designee is unable to locate personally the owner or others responsible for the violation or infraction, the building official or his designee may post or placard the citation or notice in a conspicuous location on the property of the owner, visible from a public right-of-way, and mail a copy of same to the owner or persons responsible for the violation, which shall be sufficient as proof of delivery and service.

107.3.1 Unauthorized Tampering. *In addition to and accordance with this section of the Property Maintenance Code, unauthorized removal, mutilation, tampering with, or destroying signs, tags, or seals posted or affixed by the code official shall be subject to a fine of no less than five hundred dollars (\$500).*

~~107.3 Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:~~

- ~~1. Delivered personally;~~
- ~~2. Sent by certified or first class mail addressed to the last known address; or~~
- ~~3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.~~

Section 111 The provisions of Section 111.1 and 111.2 of the International Property Maintenance Code relating to appeals are deleted in their entirety, and the following provisions shall control.

111.1 Application for appeal. Any person directly affected by a decision of the code official or his designee a notice or order issued under this code or any applicable Town Code by which a decision of the code official or his designee is based shall have the right to appeal to the Mayor and Town Council, provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Denton Mayor and Town Council shall have no authority to waive requirements of this code.

111.2 Membership of board. For the purposes of this code, the property maintenance board of appeals shall be the Mayor and Town Council established in the Town of Denton Zoning Ordinance. All provisions governing the Town Council with respect to members, provisions for alternates, quorum, procedure, chairman, term of office, etc., shall be applicable to appeals from this code. Review of the decision of this board shall also be in accordance with the Denton Zoning Ordinance.

111.6.3 Citations and Fines The Mayor and Council may waive fines and fees assessed on a violation or violations based on determination of appeal.

~~111. Appeal provisions. The provisions of Section 111 of the International Property Maintenance Code relating to appeals are deleted in their entirety, and the following provisions shall control.~~

~~111.1 Application for appeal. Any person affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are~~

~~adequately satisfied by other means.~~

~~Section 111.2 Board of Appeals. For the purposes of this code, the board of appeals shall be the Board of Appeals established in the Town of Denton Zoning Ordinance. All provisions governing the Board of Appeals with respect to members, provisions for alternates, quorum, procedure, chairman, term of office, etc. shall be applicable to appeals from this code. Review of the decision of the Board of Appeals shall also be in accordance with the Denton Zoning Ordinance.~~

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 302 EXTERIOR PROPERTY AREAS

302.4 Weeds *All premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches unless provided for by other sections of this code or the Denton Town Code.*

~~**303.14 Insect screens.** During the period from April 1 through October 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.~~

SECTION 304 EXTERIOR STRUCTURE

304.14 Insect Screens. During the period from *April 1 through October 1*, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

304.19 Eviction Refuse *Section § 64-8 of the Denton Town Code shall be repealed and the provisions of this section shall control:*

304.19.1 Removal of Eviction Items from properties. *Furniture and household items from a rented or leased property removed as a result of eviction shall be located in such a manner that maintains accessibility on public right-of-way,*

including walkways and drives, and does not create a hazard to pedestrians.

304.19.2 Notification. the property owner or their authorized agent shall notify the Town of Denton in a reasonable amount of time and no less than twenty-four (24) hours prior to the eviction.

304.19.3 Right of Claim and Collection. The evicted property and items shall be collected forty-eight (48) hours after the eviction was given, providing twenty-four (24) hours for claim by the tenant or rightful property owner. All evicted property and items shall be deemed refuse after the prescribed time period for claim and collected by the Town of Denton Public Works at a collection rate of one hundred dollars (\$100) per truck and any additional cost incurred for disposal. Any cost incurred by the Town of Denton in the removal of eviction property shall be assessed to the property owner.

304.19.4 Violations. Violations of the provisions of this section shall be in accordance with Section 106 of the Property Maintenance Code and as amended in this chapter.

304.20 Trees and Shrubs. The provisions of this section refer to and include all shrubs, fruit, ornamental, and shade trees planted and to be planted and the guards and devices maintained and erected and maintained to protect such shrubs or trees in the parks, public property, and on private property notwithstanding other provisions prescribed elsewhere in the Town Code.

304.20.1 Inspections and Right of Entry. The code official or his designee is authorized to make inspections in accordance with Section 104 of the Property Maintenance Code and as amended in this chapter.

304.20.2 Violations. If any person shall fail to remove, replace, replant, or treat a dangerous or diseased tree or shrub or in any other way violate any provision of any section of this article after receiving a notice or order from the code official or his designee shall be subject to the provisions of Section 106 of the Property Maintenance Code and as amended in this article and the fines as imposed thereof.

304.20.3 Duty of the property owner to remove or treat certain trees and shrubs. No person owning property in which any tree or shrub has been planted shall permit a dead tree or shrub, or tree or shrub which is in dangerous condition, whether as a result of disease, injury, or other cause, to remain in, upon or over any public right-of-way but shall cause the same to be entirely removed or trimmed and treated as may be necessary. The owner of any property, or authorized agent of such owner, on which property any tree or shrub is located, shall be solely responsible for any damage that may result to any person or property from any dangerous condition, whether as a result of disease, injury, or other cause, of any such tree or shrub or any part of the same.

304.20.4 Duty of the property owner to remove or treat certain trees and shrubs, emergency measures. *Whether in the public right-of-way or on private property, if the condition of any tree or shrub, or any part thereof, is such that it constitutes a danger to life or property, whether such condition is the result of disease, injury, or any other cause, and is such an imminent danger of the tree or shrub or any other part thereof falling, dropping, or collapsing upon, or is such that in any other way is likely imminently to cause injury or damage to property, the building official or his designee is authorized to remove, trim, or otherwise abate the condition at the expense of the property owner. Unpaid expenses shall be as provided or otherwise prescribed for in Section 106.6 of the Property Maintenance Code and as amended by this chapter.*

304.20.5 Maintenance of trees and shrubs. *The owner, agent of the owner, or person, or business entity in control of any parcel of property in or upon which there are trees or shrubs shall maintain such trees or shrubs in a manner that branches or limbs or any part thereof of any such trees or shrubs which extend over a neighboring property or public right-of-way shall not constitute a nuisance, either by neglect, pests, or disease, or any other cause, to, or create an immediate risk of damage, hazard, or result in damage or injury to life or property.*

304.20.6 Protection of Trees and Shrubs. *No person shall pour salt, salt water, acid, oil, wood killer, or any other injurious substance upon any public right-of-way in such a way as to injure any shrub or tree planted thereon. The owner, agent of the owner, or person, or business entity in control of any parcel where there are trees or shrubs located in the public right-of-way shall erect and maintain guards shall be maintained to protect trees and shrubs during construction activity.*

304.21 Removal of Dog Feces. *The provisions of this section are in addition to Article IV, § 32-10 through § 32-12 of the Denton Town Code and refer to and include the removal of dog feces on public or private property. Dog feces shall be removed and properly disposed of in accordance with Article IV, § 32-11.*

304.21.1 Prosecution of violation. *A complaint can be filed and attested by any official of the Town of Denton, resident, or witness in the immediate vicinity of the area in which the dog defecation took place and the feces were not properly disposed of. The code official or his designee is authorized to issue a civil municipal citation upon first becoming aware of a violation or violations and to institute the appropriate proceedings at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful act.*

304.21.2 Violations occurring on leased or rented property. *For the purposes of this section, if a tenant or tenants of the leased property is determined to be responsible for the violation and fails to correct or abate such violation, or pay an*

infraction thereof, the property owner of a leased or rented property shall be deemed the responsible party to correct or abate such violation, or payment of an infraction thereof.

SECTION 309
PEST ELIMINATION

309.2 Owner of any structure shall be responsible for extermination within the structure prior to renting or leasing of the structure.

309.2.1 The owner of any structure shall be responsible for extermination of the exterior structure and premise, including any neighboring or adjacent structures or premises, if infestation is caused by the failure of the owner to prevent such infestation.

~~309.2 Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.~~

CHAPTER 6
MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 603
MECHANICAL EQUIPMENT

603.1 Mechanical Appliances. In addition to and accordance of the Property Maintenance Code, all liquid fuel burning appliances, including those fuels such as kerosene, propane, and natural gas, shall be used according to the manufacturer specifications and intended use.

Appendix A, Boarding Standards. Appendix A is hereby adopted with this article as the standard for the boarding of properties.

~~602.6. Unvented portable kerosene fired heaters. The use of unvented portable kerosene heaters shall be permitted only if the heater or appliance meets the U.L. Subject 647 and bears the label of a testing laboratory accepted by the Maryland State Fire Marshal.~~

~~603.7 Heater application. Unvented portable kerosene fired heaters may be used in one and two family dwelling units with written consent of the property owner. Heaters may be used in an outbuilding, that is a building used in connection with the main building, but smaller than the main buildings, and located apart and separate from the main building. No heater shall be operated while unattended.~~

~~603.7.2 Labels. Warning labels as required by Commercial Law Article, 14-1310 shall include the following: 1. This unit must be used in an area which has proper~~

~~ventilation. Consult owner's manual for details and instructions. 2. Use of this heater may possibly be dangerous to persons with respiratory or circulatory disorders. 3. Only water clear kerosene meeting L-K (ASTM) specifications should be used in this heater.~~

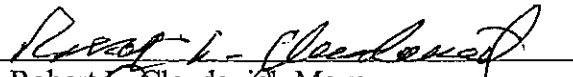
§94-3. Repealer. Ordinance Number 488 of the Town of Denton, and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed.

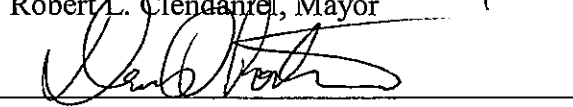
§94-4. Effect on suits or proceedings. Nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes or action acquired or existing, under any act or ordinance hereby repealed as cited in § 94-3 of this Chapter; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Chapter.

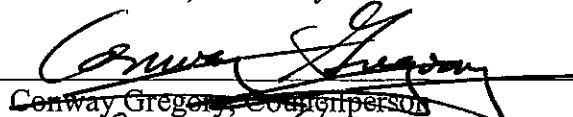
SECTION 5: In accordance with § C3-12 of the Town Charter, this ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption.

ENACTED THIS 7th DAY OF March, 2011.

DENTON TOWN COUNCIL:


Robert L. Clendaniel, Mayor


Dennis Porter, Vice Mayor


Conway Gregory, Councilperson


Agnes Case, Councilperson


Dean Danielson, Councilperson

ATTEST:

Karen L. Monteith
Karen L. Monteith

Approved for legal sufficiency this 7th day of March, 2011.

Stephen H. Kehoe
Stephen H. Kehoe, Esquire

Date Introduced 1/3/2011
Date Amendments Introduced _____
Date Passed 3/7/2011
Effective Date 3/14/2011

Text that is stricken reflects language omitted from the Town Code
Text in **bold** and *italicized* reflects additions to the Town Code