

**TOWN OF NEWPORT  
DELAWARE**

**ORDINANCE NO. 444 A**

**AN ORDINANCE TO ADOPT THE INTERNATIONAL PROPERTY  
MAINTENANCE CODE**

**WHEREAS**, as the proper maintenance of residential property has been deemed a matter of public safety that affects the life of the citizens of the Town of Newport, the Commissioners of the Town of Newport wish to establish minimum regulations governing the conditions and maintenance of all property, buildings and structures located in the Town of Newport; by providing standards for supplied utilities and facilities and other physical things and conditions essential to insure that structures are safe, sanitary and fit for human habitation; and the condemnation of buildings and structures unfit for human habitation and the demolition of such structures; known as the *Property Maintenance Code*.

**NOW THEREFORE**, the Commissioners of the Town of Newport hereby ordain:

**SECTION 1. ADOPTION OF PROPERTY MAINTENANCE CODE.**

That a certain document, three (3) copies of which are on file in the Office of the Town Manager of the Town of Newport, being marked accordingly and designated as "*International Property Maintenance Code*", including Index as published by the International Code Council, Inc., be and is hereby adopted as the *Property Maintenance Code* of the Town of Newport, in the State of Delaware; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said *Property Maintenance Code* are hereby referred to, adopted, and made part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2, of this Ordinance.

**SECTION 2. INCONSISTENT ORDINANCES REPEALED.**

That prior Ordinance 444 and all other earlier ordinances or parts thereof in conflict herewith are hereby repealed and replaced.

**SECTION 3. ADDITIONS, DELETIONS, INSERTIONS AND CHANGES.**

That the following sections are hereby amended and revised:

- (a) **Section M101.1 Title:** Insert the words "Town of Newport, State of Delaware", within brackets in line two.

- (b) **Section M101.1 Title:** Add a new subsection as follows:

**“M101.1.1 Terms.** Whenever in the Property Maintenance Code a municipality or jurisdiction is mentioned and no name is given therefore, the municipality shall be construed to mean the Town of Newport; and when a state is mentioned, the same shall mean the State of Delaware.”

- (c) **Section M101.1 Title:** Add a new subsection as follows:

**“M101.1.2 Conflict.** Where there is a conflict between the Town of Newport International Residential Code and any other code or regulations in and for the Town of Newport or the State of Delaware, then the most restrictive shall apply.”

- (d) **Section M102.2 Maintenance:** Insert the words “Occupant or Tenant” following the words “or the owner’s designated agent”, in line eight.

- (e) Amend **Section M103** by deleting the title “**DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION**”, and inserting in place thereof the title “**DEPARTMENT OF BUILDING INSPECTION**”. This change shall be made in each place within the code where the title is so indicated and reflect the intent of the Town of Newport to bring this Ordinance within the authority and purview of the Department of Building Inspection and its officers and officials.

- (f) Delete subsection “**M103.1 General**” in its entirety and substitute a new subsection to read as follows:

**“M103.1 Under the Authority of the Department of Building Inspection.** It shall be the intent and purpose of the Commissioners of the Town of Newport that this Ordinance shall be governed by, and under the authority of, the Department of Building Inspection and the executive official in charge thereof. Whenever the term “code official” is used herein, the same shall be construed to mean the building inspector, code enforcement officer or any other lawfully designated code officer of the Town of Newport duly empowered to issue permits, collect fees, conduct inspections of properties, buildings and structures and enforce the correction or abatement of violations of this code.”

- (g) Delete subsection “**M103.2 Appointment**” in its entirety and without replacement.

- (h) Delete subsection “**M103.3 Deputies**” in its entirety and without replacement.

- (i) Amend subsection “**M106.4 Violation penalties**”, by deleting in its entirety and substitute a new subsection to read as follows:

“**M106.4 Violation penalties.** Any person, including, but not limited to, landlords and tenants, found to be in violation of any provision contained herein or any order of the building official or code inspector shall be prosecuted within the limits provided by state and local laws and shall be assessed a fine of not less than \$100.00, nor more than \$500.00, per day for a first offense, up to a maximum fine of not less than \$200.00, nor more than \$1000.00, per day for subsequent offenses, together with the costs and disbursements of prosecution remitted to the Town of Newport in Court 42. Each day’s failure to comply with orders issued under this Ordinance after due notice has been served shall be deemed a separate offense. Failure to pay all fines and penalties, inclusive of costs of disbursement of prosecution, within six months from the date of the issuance of a violation will be deemed an outstanding debt owed to the Town of Newport and shall provide the Town of Newport all remedies available at law or in equity.”

- (j) **Section M106.4 Violation penalties:** Add a new subsection as follows:

“**M106.4.1 Issuance of permit to let.** Fines and penalties assessed to owners or occupants of property under this Ordinance, including costs and disbursements of prosecution, not paid in full within a period of one year after assessment shall act to prevent and preclude the issuance of an occupancy permit or rental license to owners or operators for the property cited within the violation until said fines and costs are paid in full.

- (k) **Section M107.2 Form:** Add a new subsection as follows:

“**M107.2.1 Process of appeal.** Upon notice of violation as set forth in Section M107.1 and M107.2 of this Ordinance, the person or persons so notified may appeal the violation to the Board of Building Appeals as set forth in Section 112 of the Town of Newport Building Code as established and governed by the provisions set forth in Section 112 of the Town of Newport Building Code.”

- (l) Add to “**Section M108.0 UNSAFE STRUCTURES AND EQUIPMENT**” the following new subsections to read as follows:

**M108.1.5 Vacation of dwellings condemned.** Any property, building, structure or dwelling unit condemned as unfit for human habitation under the provisions of this Ordinance shall be vacated within a reasonable time as required by the code official. No owner or operator shall let such premises to any person for human habitation and no person shall occupy any property after the date on which said official has required the affected property to be vacated.

**M108.1.6 Use of Condemned Structure(s).** No building, premises, structure or dwelling unit which has been condemned as unfit for human habitation shall again be used for human habitation until prior written approval is secured from the building official or code inspector.

**M108.1.7 Authorization.** The Town of Newport shall have the option to bring an action in Court 42 to compel an owner(s) or operator(s) of a condemned building or structure to make all necessary improvements to the building or structure so that the property is in compliance with the provisions of this Ordinance or to show cause as to why the building or structure should not be demolished. Failure on the part of a property owner to either obey an order to make necessary repairs to the building or structure or challenge a notice to show cause may result in an order for the demolition of the building or structure in the event the building or structure is not salvageable and poses a risk to the safety and welfare of the public. Such an action may be brought 30 days after notice to the owner or operator as provided in Section M1.07.1 of this Ordinance.

**M108.1.8 Costs of Demolition to be considered a debt.** Any and all expenses incurred by the Town of Newport as a result of an authorized demolition of a building or structure shall be reimbursed to the Town of Newport by the owner or operator of record of the subject building or structure. All owner(s) or operator(s) shall be jointly and severally liable to the Town of Newport for the full amount of funds expended by the Town of Newport.

**M108.1.9 Unlawful.** It shall be unlawful, pursuant to this Ordinance, for an owner or operator of a building or structure to permit such building or structure to be vacant, boarded up or partially boarded up for a period in excess of 60 days. A first offense shall be punishable by a fine as provided in Section M106.4 of this Ordinance. It shall be within the discretion of the building official or code inspector of the Town of Newport to grant an extension of time to permit a vacant building or structure remain boarded up in excess of 60 days, but no more than six months, if:

1. The owner or operator of the property submits, in writing, a statement of the specific work in progress or intended, including a timetable, on the property that will bring the property in compliance with the provisions of this Ordinance; and
2. The work being performed is continual throughout the entire period that the building or structure remains vacant and boarded up.

**M108.1.10 Immunity.** Any owner, operator or tenant or any other person who occupies any property which has been condemned as unfit for human habitation pursuant to this Ordinance shall do so at their own risk and the Town of Newport, its agents, employees and officers shall be immune from any damages suffered to any person for such unlawful occupation and residence. It shall be the sole duty of the owner or operator of such premises to ensure that any structure or dwelling unit which has been condemned is vacated and unoccupied.

- (m) Amend "**Section 111 MEANS OF APPEAL**", by deleting line 4 and adding the following:

"provided that a written application for appeal is filed within 10 days after the day that the decision, notice or order was served by the building official."

- (n) **Section M202 GENERAL DEFINITIONS:** Insert the words "machinery or parts thereof, household mechanical equipment including water heaters, washing machines, dryer units, dish washers and furnaces" into the definition of Rubbish following the word "dust" in line six.

- (o) Amend "**Section M302.4 Weeds**", by deleting lines 1 and 2 and adding the following:

"All premises and exterior property shall be maintained free from weeds or plant growth in excess of 6 inches. Plant, weeds and or grass clippings and other debris shall not be deposited, swept or blown on sidewalks, driveways or on streets."

PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO INSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND FOR THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES; KNOWN AS THE PROPERTY MAINTENANCE CODE”, is hereby repealed and replaced as well as all other ordinances or parts of ordinances found to be in conflict herewith are hereby repealed and replaced.

**SECTION 5. COMPLIANCE REQUIRED.**

All repairs, additions, alterations or replacements to dwellings, dwelling units or premises to bring such dwellings, dwelling units or premises into compliance with this section shall conform to all provisions of this Ordinance and other ordinances of the Town of Newport governing the construction, replacement, repair or alteration of such dwellings, dwelling units and premises and the facilities and equipment contained therein.

**SECTION 6. SEVERABILITY.**

It is hereby declared to be the policy of the Town of Newport that if any section, clause, or phrase of this Ordinance be declared invalid or unconstitutional by the judgment of any court of competent jurisdiction, such invalidity shall not affect the remaining sections, clauses or phrases of this Ordinance.

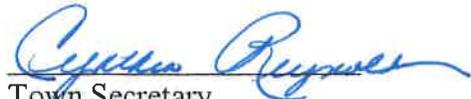
**SECTION 7. CONFLICTS.**

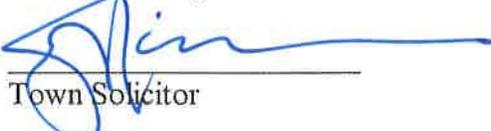
Other ordinances or parts of other ordinances deemed to be in conflict with this Ordinance are hereby repealed and superceded to the extent that other such ordinances or parts of ordinances are in conflict, provided that such repeal shall not abate a right of action already accrued under any repealed ordinance.

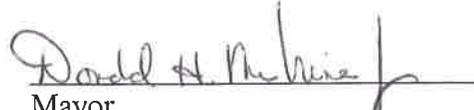
**SECTION 8. EFFECTIVE DATE.**

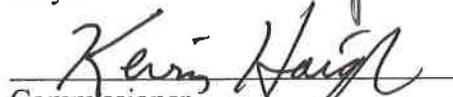
The Town Secretary shall certify to the adoption of this Ordinance and this Ordinance shall take full force and effect sixty (60) days after the date of final passage and approval.

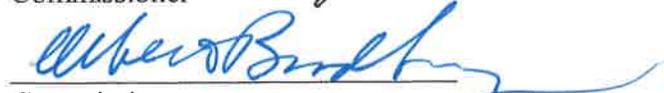
The Commissioners of the Town of Newport hereby adopt this ordinance and its provisions to be held in full effect from this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

  
Town Secretary

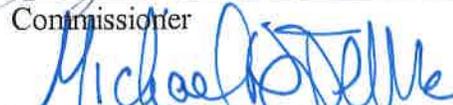
  
Town Solicitor

  
Mayor

  
Commissioner

  
Commissioner

  
Commissioner

  
Commissioner