



SPONSOR: Rep. Briggs King & Sen. Pettyjohn
Reps. Bolden, D. Short; Sens. Hocker, Wilson

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 118
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2
AND
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 9 PART IV OF THE DELAWARE CODE RELATING TO PROPERTY MAINTENANCE.

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

Section 1. Add a new Chapter to Title 9 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

Chapter 72. SUSSEX COUNTY PROPERTY MAINTENANCE

§ 7201 Definitions.

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

(1) "Administrative tribunal" means a body appointed by the Sussex County Council for the purpose of hearing violations of any ordinance, rule, or regulation enacted pursuant to this Chapter.

(2) "Building" means 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) "Sussex County Council" means the Council for Sussex County.

(4) "Person responsible" means the owner and any other person or persons who have control over the property or are responsible for the violation.

(5) "Property" means a lot, plot, or parcel of land, including any structures thereon.

(6) "Structure" means a manmade object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

§ 7202 Promulgation of property maintenance ordinances, rules, and regulations.

The Sussex County Council, in order to provide for the health, safety, and welfare of the citizens of Sussex County, may promulgate ordinances, rules, and regulations regulating and governing the condition and maintenance of all property, structures, and buildings to eliminate or prevent unsafe, unhealthy, unsanitary, or substandard conditions. Said

ordinances, rules, or regulations may 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.

§ 7203 Administration and enforcement.

The Sussex County Council, or its designee, shall have the power and authority to administer and enforce all property maintenance ordinances, rules, and regulations as promulgated by the Sussex County Council except as otherwise provided for by this chapter or by ordinance, rule, or regulation adopted by Sussex County Council.

§ 7204 Removal of weeds, grasses, refuse, rubbish, trash, or other waste material.

In accordance with § 7202 of this Chapter, the Sussex County Council may promulgate ordinances, rules, and regulations regulating and governing excessive growth of weeds or grass, or the placement or accumulation of refuse, rubbish, trash, or other waste material upon Property to prohibit the creation of a nuisance detrimental to adjoining properties or the health or safety of other persons.

§ 7205 Fees.

The Sussex County Council may adopt ordinances, rules, and regulations providing for the charge of reasonable fees for the administration and enforcement of the property maintenance ordinances, rules, and regulations, including fees for the inspection and re-inspection of properties for which a notice of violation has been duly issued.

§ 7206 Violation of property maintenance ordinances, rules, and regulations or chapter; notices and orders.

(a) For the purpose of enforcing compliance with the provisions of the property maintenance ordinances, rules, and regulations, and removing illegal, unhealthy, or unsafe conditions, the Sussex County Council, or its designee, may issue such rules, notices, or orders as may be necessary.

(b) Whenever the Sussex County Council, or its designee, is satisfied that a person responsible has committed an offense against the property maintenance ordinances, rules, or regulations, or other provision of the Sussex County Code that constitutes a threat to the public health, safety, or welfare, or of an order of the Sussex County Council, or its designee, the Sussex County Council, or its designee, may serve a written notice or order upon the person responsible, directing discontinuance of each illegal action and the remedying of the condition that is in violation of the ordinances, rules, or regulations, as adopted by the Sussex County Council.

(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 Sussex County Council, or its designee, determines that such violation cannot be cured within such time and clearly delineates additional time for compliance.

§ 7207 Abatement; creation of tax lien.

(a) If after due notice, either actual or constructive, is given by the Sussex County Council, or its designee, 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 Sussex County Council, or its designee, may cause such violation to be removed, corrected, abated, or otherwise made safe and sanitary. The Sussex County Council, or its designee, 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 ordinances, rules, and regulations or other provisions of the Sussex County Code that constitute a threat to the public health, safety, or welfare or to provide for the sanitary condition, safety, or security of the property, structure or building.

(b) All expenses incurred by the Sussex County Council, or its designee, pursuant to this section 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 Sussex County Council, or its designee, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes, and paid to Sussex County, when collected.

(c) Any unpaid fine or civil penalty associated with violation of the property maintenance ordinances, rules, or regulations, or any other provision of the Sussex County Code that provides for the sanitary condition, safety, or security of a property, structure, or building, such fine or civil penalty being final and non-appealable, may be added to local property tax billings for the property, which was the subject of said notice or order and collected in the same manner as other county real estate taxes, and paid to Sussex County, when collected.

(d) Sussex County may maintain any action at law or in equity for the recovery of expenses incurred by the Sussex County Council, or its designee, for the collection of charges, fees, fines, and penalties assessed pursuant to this chapter, including, without limitation, proceedings pursuant to a writ of monition.

§ 7208 Penalties.

The person responsible for a building, structure, or premises, where anything is in violation of this chapter or the ordinances, rules, or regulations as promulgated by the Sussex County Council, or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Sussex County Council, or its designee, or in violation of an order of the Sussex County Council, or its designee, may be fined in accordance with a schedule of fees and penalties to be

established by the Sussex 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.

§ 7209 Additional remedies.

The imposition of the penalties or enforcement prescribed in this chapter or by the ordinances, rules, or regulations as promulgated by the Sussex County Council shall not preclude the Attorney General, county attorney, Sussex County Council's designee or code enforcement constable from instituting appropriate actions or proceedings to prevent, enjoin, or abate any continuing violation of this chapter.

§ 7210 Existing ordinances, rules, and regulations.

To the extent the Sussex County Council may have enacted or adopted ordinances, rules, and regulations governing property maintenance prior to the adoption of this chapter, those ordinances, rules, and regulations may be enforced in accordance with this chapter.

§ 7211 Exceptions.

This chapter shall not apply to (1) properties, buildings, or structures located within any incorporated city or town in Sussex County unless the responsibility for the local code enforcement has been duly transferred to Sussex County.

(2) land deemed to be actively devoted to agricultural, horticultural, or forestry as defined in § 8333 of this title.

(3) any structure that is not subject to regulation pursuant to § 6902(b) of this Title.

(3) State Parks and Wildlife Areas.