

ORDINANCE NO. 725

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

WHEREAS, MD CODE ANN Local Government Article Section 6-101, *et seq.*, confers upon municipalities the power to make reasonable regulations concerning buildings, including the adoption of a building code; and

WHEREAS, by Ordinance No.704, the Denton Town Council adopted the 2018 Edition of the International Property Maintenance Code, which is incorporated into Denton Town Code, Chapter 94;

WHEREAS, the Denton Town Council has determined that it is desirable and in the public interest to adopt the 2021 Edition of the International Property Maintenance Code, 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 property, 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; as well as providing for the issuance of permits and collections of fees; and to repeal and reenact Chapter 94 of the Denton Town Code to reflect the adoption of the 2021 Edition of the International Property Maintenance Code, as amended herein.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE DENTON TOWN COUNCIL AS FOLLOWS:

SECTION 1. The Denton Town Code, Chapter 94 is hereby repealed in its entirety and reenacted as set forth herein.

SECTION 2. The Denton Town Council hereby adopts the 2021 Edition of the International Property Maintenance Code, a copy of which is attached hereto, as amended by this Ordinance, which will be incorporated into the Denton Town Code, Chapter 94 as follows:

§ 94.1. Adoption of standards by reference.

The ~~2018~~ **2021** 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. Certain sections and subsections of the International Property Maintenance Code, ~~2018~~ **2021** edition, are hereby added, deleted, amended, changed and clarified as follows:

Note: Although the International Property Maintenance Code, ~~2018~~ **2021** edition, does not identify sections with a “PM” designation, such a designation is utilized to avoid any confusion as to what Code the amendment relates.

§ 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 the phrases "chief appointing authority of the jurisdiction" and "chief authority" wherever the appear in the codes.

C. Substitute "the Town of Denton Department of Planning and Codes" for the phrase "Department of Property Maintenance Inspection."

D. Substitute the following applicable codes and standards for references to applications of other codes:

(1) Local amendment to the Town of Denton Building Code, Chapter 38, of the Denton Town Code, and the provisions of the building codes as adopted by the state and referenced in the Maryland Building Performance Standards (COMAR ~~05.02.07~~ **9.12.51**) for all references to building and existing building construction.

(2) National Standard Plumbing Code, National Fuel and Gas Code, and National Fire Protection Association as adopted by the State and referenced in the Maryland Building Performance Standards (COMAR ~~9.12.52~~ **9.20.01**) for all references to plumbing and fuel and gas codes.

(3) International Mechanical Code as amended and adopted by the State and referenced in the Maryland Building Performance Standards (COMAR ~~9.12.52~~ **9.20.01**) for all references to mechanical code.

(4) 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 and referenced in the Maryland Building Performance Standards (COMAR ~~9.12.52~~ **05.02.07**).

(5) Maryland Accessibility Code as adopted by the State of Maryland (COMAR ~~05.02.02~~ **9.12.53**) for all references to accessibility code.

(6) National Electric Code as adopted by the state and referenced in the Maryland Building Performance Standards (COMAR ~~9.12.52~~ **9.12.53**).

E. 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.

PM CHAPTER 1
SCOPE AND ADMINISTRATION
SECTION PM 101
GENERAL

Section PM 101.1, Title, is amended by deleting the subsection in its entirety and substituting the following:

PM 101.1 Title. These regulations shall be known as the "Town of Denton Property Maintenance Code," herein referred to as "Chapter."

PM 101.2 Jurisdiction. This chapter shall regulate all housing and property maintenance, residential or nonresidential, on any property, vacant lot, parcel, or otherwise, within the incorporated limits of the Town of Denton.

SECTION PM 102
APPLICABILITY

Section PM 102.3, Application of other codes, is amended by deleting the subsection in its entirety and substituting the following:

PM 102.3 Application of other codes. Repairs, additions, alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the code standards referenced in § 94-2.1, General amendments. Nothing in this chapter shall be construed to cancel, modify or set aside any provisions of the Denton Town Code.

Section PM 102.8.1, Conflicts, is amended by deleting the subsection in its entirety and substituting the following:

PM 102.8.1 Conflicts. Where conflicts occur between provisions, regulations, and requirements of this chapter and the referenced standards, the stricter provisions, regulations, and requirements shall apply.

SECTION 104
DEPARTMENT OF PLANNING AND CODES

Section PM 104.1, Fees, is amended by deleting the subsection in its entirety and substituting the following:

PM 104.1 Fees. Fees for activities and services performed by the Department in carrying out its responsibilities under this chapter shall be according to the fee schedule as established by resolution of the Mayor and Town Council that may be amended from time to time.

SECTION PM 105

DUTIES AND POWERS OF THE CODE OFFICIAL

Section PM 105.1, General, is amended by deleting the subsection in its entirety and substituting the following:

PM 105.1 General. The Code Official is hereby authorized and directed to enforce the provisions of this chapter and the provisions of Chapter 98, Residential Rental Housing, of the Denton Town Code. The Code Official shall have the authority to render interpretations of these codes and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of these codes. Such policies and procedures shall not have the effect of waiving requirements specifically provided in these codes.

PM 105.1.1 Conflicts of interest. No Town employee who has an official duty in connection with this Department and/or the enforcement of the provisions, regulations, and requirements of this Chapter shall be financially interested in the furnishing of labor, materials or appliances for the construction, alteration, or maintenance of a building, or in making plans or specifications therefore, unless he or she is the owner of the building. No such employee shall engage in activity which is inconsistent with the public interest and his or her official duties.

PM 105.1.2 Rule-making authority. The Code Official shall have the authority as necessary, in the interest of public health, safety and general welfare, to adopt, promulgate rules and procedures, and to designate requirements applicable because of local climate or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements, or of violating acceptable engineering methods involving public safety.

Section PM 105.2, Inspections, is amended by deleting the subsection in its entirety and substituting the following:

PM 105.2 Inspections. The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals, to enforce the provisions of this chapter and Chapter 98, Residential Rental Housing, of the Denton Town Code. All reports of such inspections shall be in writing and be certified by a responsible official of such approved agency or by the responsible individual. The Code Official is authorized to report upon unusual technical issues that arise, subject to the approval of the authority having jurisdiction, and on any potential violations of the Denton Town Code.

SECTION PM 107 MEANS OF APPEAL

Section PM 107, Means of appeal, is amended by deleting the subsection in its entirety and substituting the following:

PM 1.1 Application for appeal. Any person directly affected by a decision of the Code Official or a notice or order issued under this chapter or any applicable portion of the Denton Town Code by which a decision of the Code Official is based shall have the right to appeal in any of the procedures as provided for in Sections PM 111.1(a), 111.1(b), and 111.1(c), provided

that an application for appeal is filed within the time as specified in Section PM 107.1(a), 107.1(b), or 107.1(c), 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 chapter, or regulations of the Denton Town Code, or the rules legally adopted there under, have been incorrectly interpreted, or the provisions of this chapter or Denton Town Code do not fully apply or the requirements are adequately satisfied by other means.

PM 107.1(a) Administrative appeal of citations or fines. The owner or person affected by the decision and penalties of the Code Official pursuant to Section PM 106 may submit an application for appeal within 10 calendar days of the receipt of a citation to the Director of the Department. The application shall include a written and detailed explanation for the grounds of appeal. The Director or Administrator of the Department shall issue a written decision affirming, modifying, reversing, revoking or vacating the decision and penalties within 10 calendar days of the receipt of such appeal.

PM 107.1(b) Hearing before the Board of Appeals. The owner or person affected by the decision and penalties of the Code Official pursuant to Section PM 106 may submit an application for appeal within 20 days of the receipt of a ticket or citation to the Denton Town Board of Appeals. The application shall include a written and detailed explanation for the grounds of appeal. The procedure, standards, and provisions of the Board of Appeals shall be in accordance with § 128-163 of the Denton Town Code and the following:

Limitations on authority. An application for appeal shall be based on the claim that the true intent of the chapter or applicable Town Code has been incorrectly interpreted, the provisions of the chapter or Town Code do not fully apply, or an equally good or proper substitution is available in lieu of the application of the chapter or Town Code section. The Board of Appeals shall have no authority to waive the requirements of this chapter or any provision of the Denton Town Code.

Payment of fees. The fees for a hearing before the Board of Appeals, as established in the general fee schedule that may be amended from time to time by the Denton Town Council by resolution, shall not be charged if the applicant prevails on all issues presented to the code official or at any level of appeal.

PM 107.1(c) Court review. The owner or person affected by the decision and penalties of the code official pursuant to Section PM 106 may request to stand trial by the appropriate Court.

SECTION PM 109 VIOLATIONS

Section PM 109.1, Unlawful acts, is amended by deleting the subsection in its entirety and substituting the following:

PM 109.1 Unlawful acts. Any person, as defined in PM Section 202, who shall violate any provision or provisions of this chapter or shall fail to comply with any requirements hereof

shall be subject to any of the enforcement mechanisms and penalties outlined in this chapter.

Section PM 109.3, Prosecution of violation, is amended by deleting the subsection in its entirety and substituting the following:

PM 109.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with PM Section 107 shall be deemed guilty of a municipal infraction, and the violation shall be deemed a strict liability offense as defined in PM Section 202. If the notice of violation is not complied with, the Code Official is authorized to institute the appropriate proceedings by law, including, but not limited to, the fines and penalties in accordance with PM Section 106.4.1 and PM Section 106.4.2, or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure or property in violation of the provisions of this chapter or of the order or direction made pursuant thereto. The Town Attorney is authorized to prosecute a violation of any provision of this chapter.

Section PM 109.4, Violation penalties, is amended by deleting the subsection in its entirety and substituting the following:

PM 109.4 Violation penalties. Any person who shall violate a provision of this chapter, or fail to comply therewith, or with any requirements thereof, shall be prosecuted within the limits by state or local laws. 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, permit the Town to abate the violation at the defendant's expense in accordance with PM Section 106.5.

PM 109.4.1 Fines. Any person violating the provisions of this chapter may be subject to fines as established by resolution of the Denton Town Council and amended from time to time.

PM 109.4.2 Unpaid penalties and costs. Any fine, fee, penalty, and costs pursuant to the provision(s) of this chapter, or any costs or related expenses associated with abatement of a violation(s), shall be charged to the owner and tenant(s) of such property, and if not paid in 90 days, shall be a lien against such property and shall be collectible in the same manner in which delinquent taxes against such real estate shall be collectible, or by any action at law as deemed appropriate.

PM 109.4.3 Repeat and continuous violations. For the purposes of this chapter, repeat or continuous violations as defined in Section PM 202 are the same violation or violations of the provisions of this chapter occurring on three separate occurrences in a twelve-month period, and subject to increases in fine in accordance with the fine schedule as established by resolution of the Denton Town Council, and amended from time to time.

DEFINITIONS

202. Definitions.

INOPERATIVE MOTOR VEHICLE. Any vehicle or trailer that cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, dismantled, or in a partially dismantled condition, or from which the wheels, engine, transmission, or any substantial part thereof have been removed, or which for any reason is incapable of operation on its own power.

MOTOR VEHICLE. Any vehicle or device that is self-propelled or designed for self-propulsion, including but not limited to automobiles, buses, trucks, truck tractors, tractors and motorcycles.

UNREGISTERED MOTOR VEHICLE. A motor vehicle which is not currently validly registered pursuant to the laws of the State of Maryland.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include but not limited to the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust, and other similar matters, and shall also include upholstered furnishings not designed, manufactured or intended for exposure to the elements.

**CHAPTER 3
GENERAL REQUIREMENTS
EXTERIOR PROPERTY AREAS**

302.8 Motor Vehicles.

302.8.1. Inoperative or unlicensed vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicles shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. The presence of such vehicles or parts thereof on private property is hereby declared to be a public nuisance which may be abated in accordance with the provisions of the ordinance. The storage of a motor vehicle under a tarpaulin, tent or similar covering, or in or under any temporary structure or any structure not authorized by the building and zoning codes of the Town shall not be permitted.

302.8.2. Abandoned vehicles. Any motor vehicle that is inoperable and is left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours shall be deemed an abandoned vehicle and may be taken into custody and disposed of by the police department as provided in the Transportation Article of the Annotated Code of Maryland as amended.

EXTERIOR STRUCTURE

304.14. Insect Screens. During the period from April 1 thru October 1st, 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 and processed, manufactured, packaged or stored shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch (16 mesh per 25mm), and every screen door used for insect control shall have a self-closing device in good working condition.

CHAPTER 6
MECHANICAL AND ELECTRICAL REQUIREMENTS
SECTION 602 HEATING FACILITIES

602.3 Heat Supply. Insert the dates: October 1 thru May 1st. All other provisions of Section 602.3 are hereby adopted, except references to the International Plumbing Code are hereby deleted and the Maryland Plumbing Code is inserted in its place.

602.4 Occupiable workspaces. For heat supply for occupiable workspaces, the following dates are hereby inserted: October 1 thru May 1. All other provisions of Section 602.4 are hereby adopted without changes.

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 Marshall.

SECTION 603 MECHANICAL EQUIPMENT

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.

SECTION 604 ELECTRICAL FACILITIES

604.2 Service. Section 604.2 is amended by deleting reference to the ICC Electrical Code and inserting the Maryland Electrical Code.

§ 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.

§ 94.5. Copies on file. The Clerk-Treasurer of the Town of Denton shall maintain two (2) copies of the Property Maintenance Code on file in the Town Office.

SECTION 3. Nothing in this Ordinance shall be construed to limit the application of the Minimum Livability Code, which has been adopted by the Department of Housing and Community Development (as set forth in COMAR ~~09.12.52~~, **09.12.54**, et seq., as amended from time to time). The Minimum Livability Code shall continue to apply to residential structures located within the Town that are not owner-occupied and that are used for human habitation.

SECITON 4. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Denton Town Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 5. 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.

ADOPTED this _____ day of _____, 2021

DENTON TOWN COUNCIL:

Abigail W. McNinch, Mayor

Lester L. Branson, Council Member

Dallas Lister, Council Member

Walter Keith Johnson, Council Member

Doncella Wilson, Council Member

ATTEST/WITNESS:

Karen L. Monteith,
Clerk Treasurer

Approved for legal sufficiency this _____ day of _____, 2021

Christopher Drummond, Town Attorney

Date Introduced _____

Date Amendments Introduced _____

Date Passed _____

Effective Date _____

Text that is stricken reflects language omitted from the Town Code

Text in **bold** and *italicized* reflects additions to the Town Code