

**TOWN OF ELSMERE**  
**APPEAL TO THE BOARD OF ADJUSTMENT**

Any person directly affected by a decision of the Code Enforcement Official or a notice or order issued under this Code shall have the right to appeal to the Board of Adjustment of the Town of Elsmere, provided that a written application for appeal is based on a claim that the true intent of this code or the rules legally adopted there under has been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the Code: 1) provides the same or better protections than what the Code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustment may, in its discretion, either enforce the Code as written or permit the proposed alternative action.

<b>Date this Appeal was filed:</b> MARCH 8, 2021	<b>Petition Number:</b> 22-02
<b>Date of the Original Action:</b> 03/01/22	<b>Tax Parcel Number:</b> 19-00500-054
<b>Subject Property Address:</b> 10 WESTERN AVENUE	
<b>Property Owner's Name:</b> KAUSHIK V. SHAH	<b>Phone Number:</b> 302-545-9242
<b>Property Owners Address:</b> P. O. BOX 3056, WILMINGTON, DE 19804	
<b>Applicant's Name:</b> KAUSHIK V. SHAH	
<b>Applicant's Address:</b> P. O. BOX 3056, WILMINGTON, DE 19804	
<b>Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.)</b> CITATION #: V2200436	
<b>Reason for the Appeal:</b> TENANT HAD CERTAIN FURNITURE ITEMS LAYING ALONG THE SIDE OF THE HOUSE AWAITING THE PERSON WHO SHE HAD ENGAGED TO PICK THEM UP FOR DISPOSAL BUT THERE WAS A DELAY. IN EACH INSTANCE; HOWEVER, TENANT DID CLEAR-UP THE VIOLATION SHORTLY THEREAFTER. I AS THE OWNER OF THE PROPERTY IMMEDIATELY FOLLOWED-UP WITH THE TENANT UPON RECEIPT OF A COPY OF THE VIOLATIONS ON EACH OCCASION.	
<b>Relief sought:</b> IN LIGHT OF THE FACT THAT THE TENANT NOW KNOWS NOT TO STACK FURNITURE ITEMS OUTSIDE UNTIL SHE IS CERTAIN THAT THE INDIVIDUAL WHO WILL PICK THEM UP WILL COME, SO THAT THEY DO NOT LAY AROUND THE SIDE OF THE HOUSE; WE ARE REQUESTING RELIEF FROM THIS CITATION AS THE VIOLATIONS WERE NOT DELIBERATE.	
<b>Applicant's Signature:</b> <u>Kaushik Shah</u>	<b>Date:</b> MARCH 8, 2022

**THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT****\*\*\*\*\*CITATION\*\*\*\*\***

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

**EXHIBIT**

tabbles

22-02 B

<b>RESPONSIBLE PARTY</b> SHAH KAUSHIK V PO BOX 3056 WILMINGTON, DE 19804	<b>CITATION #</b> V2200436 <b>OFFICER</b> S. Allen <b>VIOLATION DATE</b> 03/01/22 <b>PROPERTY ADDRESS</b> 10 WESTERN AV <b>ABATEMENT DATE</b>
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On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
This property has been deemed a repeated public nuisance for violations occurring on the following dates: 10/29/2021, 12/15/2021 & 02/07/2022.	CH 145 Repeat Public Nuisance Property	04/01/2022	\$ 1,000.00

**HOW YOU CAN AVOID PAYING THE FINE**

If you have not received any citations for any violation within the last 12 months, the fine may be waived. You must take the required corrective action and abate the situation and bring proof of your actions to the Town's Code Enforcement Office within 48 hours of the violation date. If, in the opinion of the Code Enforcement Officer, the situation has been resolved and the violation no longer exists, the fine portion and only the fine portion of this summons, may be waived. The record of a violation occurring shall remain and the property may still be subject to fines associated with being deemed a repeated public nuisance.

**\*\*\*\*\*CITATION INFORMATION\*\*\*\*\***

In order to process your payment, please write the property address in violation in the memo section of the check or money order, and then mail it with the voucher below. You may also pay your fee in person at Town Hall, 11 Poplar Ave. Elsmere, DE 19805.

**ABATEMENT COST**

If the violation noted above is not corrected by 4:00 pm. on the "ABATEMENT DATE" listed above, the Town will take action to abate the violation. If this becomes necessary, in addition to the fine already assessed, you will owe to the Town the costs of the abatement.

Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

The "Amount Due" associated with this violation is a civil penalty and is due by no later than the "Due No Later Than." Additionally, if the violation is not abated by the "Abatement Date" shown above, the Town will take action to correct the violation. If this becomes necessary, you will be responsible for the payment of all abatement costs incurred by the Town. You must pay the amount due by the date shown below, even if the violation has been corrected.

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Please return this section with your payment.

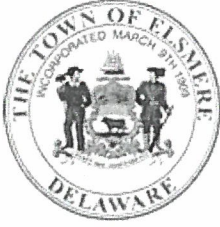
DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
04/01/2022	19-00500-054	V2200436	\$ 1,000.00

**Mail Your Payment To:****The Town of Elsmere  
Finance Department  
11 Poplar Avenue  
Elsmere, DE 19805**

Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty penalty.

You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation.

**MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.**



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbies

22-02 C

03/01/22

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

Re.: Tax Parcel 19-00500-054 *10 WESTERN AV*

Dear Property Owner,

Enclosed you will find a "Notice of Violation" which was issued due to conditions found at the property listed above. The records of the Town of Elsmere identify you as the owner of this property. Also enclosed, you will find a copy of Chapter 145 of the Code of the Town of Elsmere. Please take the time to review both of these documents thoroughly.

Based upon the violation listed in the enclosed "Notice of Violation", which states the date and time the prohibited conduct was observed at your property, as well as the nature of the prohibited conduct, your property has been deemed to be a "Public Nuisance" as defined in Chapter 145. Therefore, this property must be brought into compliance within five (5) days of the date of this letter. Should the prohibited conduct not be corrected within five days of the date of this letter, the Town of Elsmere will take steps to abate the referenced violation(s). Should this become necessary you, as the property owner, will be liable to reimburse the Town for its costs and expenses to abate the nuisance and for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Should these costs and expenses remain unpaid after 30 days, the amounts due shall become a lien upon your property.

Additionally Chapter 145 provides that if more than two violation for prohibited conduct as defined in the chapter occurs at this location within one year of a previous violation, the property will be deemed to be a "Repeated Public Nuisance", and as such, you as the owner, would face fines of not less than \$1,000.00 nor more than \$2,000.00, and could be found guilty of a misdemeanor punishable by imprisonment for up to one year for each offense.

Please carefully review the definition and penalties for a "Repeated Public Nuisance". If this latest violation is not the first violation to occur at property within one year, you will not be given additional warnings. Please contact me as soon as possible if you have any questions or are unsure of the potential penalties you, as the property owner, may be subject to.

Respectfully,

S. Allen

Code Enforcement Officer

cc: file

**A Council - Manager Municipality**  
**Located on the Net at [townofelsmere.com](http://townofelsmere.com)**

# TOWN OF ELSMERE

11 POPLAR AVENUE  
ELSMERE, DE 19805  
ATTN: SCOTT ALLEN  
TEL: (302)998-2215 EXT: 104  
FAX: (302)998-9920

INVOICE

I22015

EXHIBIT

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22-02 D

INVOICE DATE: 03/01/22

DUE DATE: 03/31/22

CUSTOMER #: C-002702

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

## VIOLATION INFORMATION

VIOLATION ID: V2200436

LOCATION: 10 WESTERN AV

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00/1	CODE-NU1	CHAPTER 145-NUISANCE PROPERTY 10 WESTERN AVENUE TOWN OF ELSMERE CODE CHAPTER 145 - This property has been deemed a repeated public nuisance for violations occurring on the following dates: 10/29/2021, 12/15/2021 & 02/07/2022.	1,000.000000	1,000.00
			TOTAL INVOICE	1,000.00
		If this invoice is not paid by the due date, the amount due will be charged to your property taxes as a <b><u>SPECIAL TAX LIEN!</u></b>		

TOWN OF ELSMERE  
11 POPLAR AVE  
ELSMERE, DE 19805

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

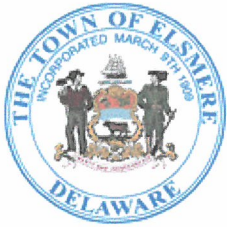
Invoice Id: I2201505

Customer Id: C-002702 PIN: 464468

Due Date: 03/31/22

Total Due: 1,000.00





## THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

### \*\*\*\*\*CITATION\*\*\*\*\*

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

EXHIBIT

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22-02 E

<b>RESPONSIBLE PARTY</b> SHAH KAUSHIK V PO BOX 3056 WILMINGTON, DE 19804	<b>CITATION #</b> V2200436 <b>OFFICER</b> S. Allen <b>VIOLATION DATE</b> 03/01/22 <b>PROPERTY ADDRESS</b> 10 WESTERN AV <b>ABATEMENT DATE</b>
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Specific Violation	Code Section	Due No Later Than	Amount Due
This property has been deemed a repeated public nuisance for violations occurring on the following dates: 10/29/2021, 12/15/2021 & 02/07/2022.	CH 145 Repeat Public Nuisance Property	04/01/2022	\$ 1,000.00

#### HOW YOU CAN AVOID PAYING THE FINE

If you have not received any citations for any violation within the last 12 months, the fine may be waived. You must take the required corrective action and abate the situation and bring proof of your actions to the Town's Code Enforcement Office within 48 hours of the violation date. If, in the opinion of the Code Enforcement Officer, the situation has been resolved and the violation no longer exists, the fine portion and only the fine portion of this summons, may be waived. The record of a violation occurring shall remain and the property may still be subject to fines associated with being deemed a repeated public nuisance.

#### \*\*\*\*\*CITATION INFORMATION\*\*\*\*\*

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#### ABATEMENT COST

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Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

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**Please return this section with your payment.**

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
04/01/2022	19-00500-054	V2200436	\$ 1,000.00

**Mail Your Payment To:**

**The Town of Elsmere  
Finance Department  
11 Poplar Avenue  
Elsmere, DE 19805**

Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty penalty.

You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation.

**MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.**

## APPEALS

EXHIBIT

tabbies

22-02 F

### 111.1 Application for appeal.

Any person directly 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 Adjustments of the Town of Elsmere, 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 there under have been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the code: 1) provides the same or better protections than what the code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustments may, in its discretion, either enforce the code as written or permit the proposed alternative action.

### 111.2 Notice of meeting.

The Board of Adjustments shall meet upon notice from the chairman, and conduct the appeal hearing within 20 days of the filing of an appeal.

### 111.3 Open hearing.

All hearings before the Board of Adjustments shall be open to the public. The appellant, the appellant's representative, the code official and any person who has been called as a witness or whose interests are affected shall be given an opportunity to be heard.

### 111.4 Procedure.

The Board of Adjustments shall set and make available the procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

### 111.5 Postponed hearing.

Either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

### 111.6 Board decision.

After hearing the evidence provided at the hearing the Board of Adjustments shall modify or reverse the decision of the code official only by a concurring vote of a majority board members present.

### 111.7 Records and copies.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

### 111.8 Administration.

The code official shall take immediate action in accordance with the decision of the Board of Adjustments.

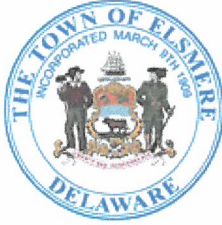
### 111.9 Court review.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the decision of the Board of Adjustments.

### 111.10 Stays of enforcement.

Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustments.

This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbles

22-02 G

03/01/22

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

Re.: Tax Parcel 19-00500-054 *10 WESTERN AV*

Dear Property Owner,

Enclosed you will find a "Notice of Violation" which was issued due to conditions found at the property listed above. The records of the Town of Elsmere identify you as the owner of this property. Also enclosed, you will find a copy of Chapter 145 of the Code of the Town of Elsmere. Please take the time to review both of these documents thoroughly.

Based upon the violation listed in the enclosed "Notice of Violation", which states the date and time the prohibited conduct was observed at your property, as well as the nature of the prohibited conduct, your property has been deemed to be a "Public Nuisance" as defined in Chapter 145. Therefore, this property must be brought into compliance within five (5) days of the date of this letter. Should the prohibited conduct not be corrected within five days of the date of this letter, the Town of Elsmere will take steps to abate the referenced violation(s). Should this become necessary you, as the property owner, will be liable to reimburse the Town for its costs and expenses to abate the nuisance and for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Should these costs and expenses remain unpaid after 30 days, the amounts due shall become a lien upon your property.

Additionally Chapter 145 provides that if more than two violation for prohibited conduct as defined in the chapter occurs at this location within one year of a previous violation, the property will be deemed to be a "Repeated Public Nuisance", and as such, you as the owner, would face fines of not less than \$1,000.00 nor more than \$2,000.00, and could be found guilty of a misdemeanor punishable by imprisonment for up to one year for each offense.

Please carefully review the definition and penalties for a "Repeated Public Nuisance". If this latest violation is not the first violation to occur at property within one year, you will not be given additional warnings. Please contact me as soon as possible if you have any questions or are unsure of the potential penalties you, as the property owner, may be subject to.

Respectfully,

S. Allen

Code Enforcement Officer  
cc: file

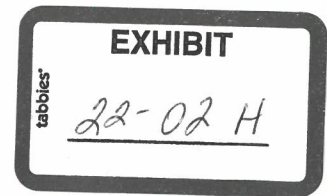
**A Council - Manager Municipality**  
**Located on the Net at [townofelsmere.com](http://townofelsmere.com)**

Chapter 145

NUISANCES

ARTICLE I

Nuisance Properties  
[Adopted 5-13-2004 by Ord. No. 430]



§ 145-1. Findings.

The Mayor and Council finds and determines that the existence of buildings, structures, properties and open lots which are repeatedly in violation of or the subject of repeated neighborhood complaints concerning violations of the Property Maintenance Code, and the General Code of the Town of Elsmere, can have a devastating impact upon the use of such property as well as surrounding properties and upon the surrounding community, including the promotion of illegal activities, the threat to the public health, safety and welfare, the interference in the community's quality of life as well as the value of surrounding properties, and, therefore, constitute public nuisances that endanger the health, safety and general welfare of the people of the Town of Elsmere and to the businesses thereof and visitors thereto.

§ 145-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**OWNER** — Any person, individual, association, entity or corporation in whose name the affected real estate is recorded with the New Castle County Recorder of Deeds shall be presumed to be the owner thereof.

**PROHIBITED CONDUCT** — Any action or lack of action which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**PUBLIC NUISANCE** — A residence, premises, structure, place or lot, developed or undeveloped, which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**REPEAT PUBLIC NUISANCE** — Any building, residence, premises, structure, place or lot, developed or undeveloped, where an owner or agent has been given written notice by the Code Enforcement Office of the Town of Elsmere that public nuisance has taken place at said location and within one year of that notice there is more than one additional violation at that location for prohibited conduct for which the owner or agent is again notified in writing.

§ 145-3. Prohibited conduct.

It is a violation of this article for the owner or his or her agent, the lessee, renter, occupant or person in charge of any building, residence, premises, structure, place or lot, developed or undeveloped, to allow, cause, own, lease, permit, facilitate or maintain the creation or occurrence of a public nuisance or repeat public nuisance.

§ 145-4. Presumptions.

- A. It shall be a rebuttable presumption that more than two violations for prohibited conduct occurring within 12 months of each other have caused a repeat public nuisance to exist. This presumption shall be effective for any combination of three violations occurring within 12 months.
- B. Presumption of agency. Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way, in charge of the premises at the time a public nuisance exists, such evidence shall be presumptive that he or she was an agent of the property owner.

§ 145-5. Violations and penalties; liability for cost of abatement.

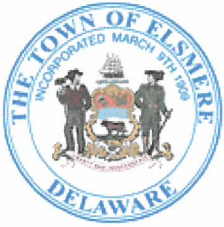
- A. In addition to any other penalties provided for in the Code of the Town of Elsmere for a violation of the Code, a violation of this article shall be a misdemeanor punishable by a fine of not less than \$1,000 for the first offense and \$2,000 for each additional offense occurring within one year and/or imprisonment for up to one year for each offense.
- B. This article shall not be construed to exclude any civil or criminal remedy provided by law for the enforcement of this Code or of the other laws of the Town of Elsmere or the County of New Castle, the State of Delaware or the United States of America.
- C. In addition to any other penalty that may be imposed hereunder, the owner of a premises who fails to abate a public nuisance, said owner having knowledge of same or having been given due notice as set forth in this article, shall be liable to reimburse the Town for its costs and expenses to abate such public nuisance, for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Said costs and expenses, if unpaid within 30 days of service on the owner of notice of amounts due, shall become a lien on the real property for said premises.

§ 145-6. Service of notice.

- A. A notice of violation that a prohibited conduct has occurred at a location shall be served by placing into the U.S. mail a notice of the violation and mailing same to the last known address of the owner of said property.
- B. The notice must contain the following:
  - (1) A statement of the date or dates upon which the prohibited conduct occurred at the property.
  - (2) The nature of the prohibited conduct and a directive that such conduct be abated within five days of the mailing of said notice.
  - (3) A copy of this code and a warning that if more than one additional violation for prohibited conduct as defined in this article occurs within one year of a previous violation, the owner will be subject to the penalties of this article, including but not limited to the Town seeking to place a lien or forfeiture pursuant to this article.

§ 145-7. Enforcement.

- A. Upon each offense for prohibited conduct, the Code Enforcement Officer may issue a summons to the owner, person in charge of said premises and/or the occupant of the residence.
- B. Upon a first offense for prohibited conduct, the Code Enforcement Department shall send the property owner or his or her agent a notice pursuant to the requirements of this article. Upon a second or subsequent offense for prohibited conduct occurring within one year of the first offense, a second or subsequent notice as described in this article shall be sent to the property owner or his or her agent.
- C. Upon failure of the owner to bring the building, residence, premises, structure, place or lot into compliance with the Town Code, the Town Attorney may apply to the appropriate court to appoint a temporary receiver to manage, operate and bring the building, residence, premises, structure, place or lot into compliance with the Code of the Town of Elsmere.



## THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

### \*\*\*\*\*CITATION\*\*\*\*\*

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

EXHIBIT

tabbles

22-02 I

<b>RESPONSIBLE PARTY</b>	<b>CITATION #</b>	V2200398
SHAH KAUSHIK V	<b>OFFICER</b>	N. Nabb
PO BOX 3056	<b>VIOLATION DATE</b>	02/07/22
WILMINGTON, DE 19804	<b>PROPERTY ADDRESS</b>	10 WESTERN AV
	<b>ABATEMENT DATE</b>	02/12/22

On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
*** THIRD NOTICE ***  Box spring & other miscellaneous junk/debris in the side yard of the residence. MUST BE REMOVED. Special pick-up by Republic Services may be required.	IPMC12-308.1 Garbage / rubbish	03/07/2022	\$ 100.00

#### HOW YOU CAN AVOID PAYING THE FINE

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DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
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## APPEALS

EXHIBIT

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22-02 J

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### 111.6 Board decision.

After hearing the evidence provided at the hearing the Board of Adjustments shall modify or reverse the decision of the code official only by a concurring vote of a majority board members present.

### 111.7 Records and copies.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

### 111.8 Administration.

The code official shall take immediate action in accordance with the decision of the Board of Adjustments.

### 111.9 Court review.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the decision of the Board of Adjustments.

### 111.10 Stays of enforcement.

Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustments.

This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbles

22-02 K

02/07/22

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

Re.: Tax Parcel 19-00500-054 *10 WESTERN AV*

Dear Property Owner,

Enclosed you will find a "Notice of Violation" which was issued due to conditions found at the property listed above. The records of the Town of Elsmere identify you as the owner of this property. Also enclosed, you will find a copy of Chapter 145 of the Code of the Town of Elsmere. Please take the time to review both of these documents thoroughly.

Based upon the violation listed in the enclosed "Notice of Violation", which states the date and time the prohibited conduct was observed at your property, as well as the nature of the prohibited conduct, your property has been deemed to be a "Public Nuisance" as defined in Chapter 145. Therefore, this property must be brought into compliance within five (5) days of the date of this letter. Should the prohibited conduct not be corrected within five days of the date of this letter, the Town of Elsmere will take steps to abate the referenced violation(s). Should this become necessary you, as the property owner, will be liable to reimburse the Town for its costs and expenses to abate the nuisance and for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Should these costs and expenses remain unpaid after 30 days, the amounts due shall become a lien upon your property.

Additionally Chapter 145 provides that if more than two violation for prohibited conduct as defined in the chapter occurs at this location within one year of a previous violation, the property will be deemed to be a "Repeated Public Nuisance", and as such, you as the owner, would face fines of not less than \$1,000.00 nor more than \$2,000.00, and could be found guilty of a misdemeanor punishable by imprisonment for up to one year for each offense.

Please carefully review the definition and penalties for a "Repeated Public Nuisance". If this latest violation is not the first violation to occur at property within one year, you will not be given additional warnings. Please contact me as soon as possible if you have any questions or are unsure of the potential penalties you, as the property owner, may be subject to.

Respectfully,

N. Nabb

Code Enforcement Officer

cc: file

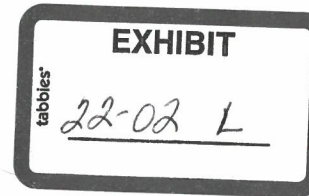
**A Council - Manager Municipality**  
**Located on the Net at [townofelsmere.com](http://townofelsmere.com)**

Chapter 145

NUISANCES

ARTICLE I

Nuisance Properties  
[Adopted 5-13-2004 by Ord. No. 430]



§ 145-1. Findings.

The Mayor and Council finds and determines that the existence of buildings, structures, properties and open lots which are repeatedly in violation of or the subject of repeated neighborhood complaints concerning violations of the Property Maintenance Code, and the General Code of the Town of Elsmere, can have a devastating impact upon the use of such property as well as surrounding properties and upon the surrounding community, including the promotion of illegal activities, the threat to the public health, safety and welfare, the interference in the community's quality of life as well as the value of surrounding properties, and, therefore, constitute public nuisances that endanger the health, safety and general welfare of the people of the Town of Elsmere and to the businesses thereof and visitors thereto.

§ 145-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**OWNER** — Any person, individual, association, entity or corporation in whose name the affected real estate is recorded with the New Castle County Recorder of Deeds shall be presumed to be the owner thereof.

**PROHIBITED CONDUCT** — Any action or lack of action which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**PUBLIC NUISANCE** — A residence, premises, structure, place or lot, developed or undeveloped, which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**REPEAT PUBLIC NUISANCE** — Any building, residence, premises, structure, place or lot, developed or undeveloped, where an owner or agent has been given written notice by the Code Enforcement Office of the Town of Elsmere that public nuisance has taken place at said location and within one year of that notice there is more than one additional violation at that location for prohibited conduct for which the owner or agent is again notified in writing.

§ 145-3. Prohibited conduct.

It is a violation of this article for the owner or his or her agent, the lessee, renter, occupant or person in charge of any building, residence, premises, structure, place or lot, developed or undeveloped, to allow, cause, own, lease, permit, facilitate or maintain the creation or occurrence of a public nuisance or repeat public nuisance.

§ 145-4. Presumptions.

- A. It shall be a rebuttable presumption that more than two violations for prohibited conduct occurring within 12 months of each other have caused a repeat public nuisance to exist. This presumption shall be effective for any combination of three violations occurring within 12 months.
- B. Presumption of agency. Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way, in charge of the premises at the time a public nuisance exists, such evidence shall be presumptive that he or she was an agent of the property owner.

§ 145-5. Violations and penalties; liability for cost of abatement.

- A. In addition to any other penalties provided for in the Code of the Town of Elsmere for a violation of the Code, a violation of this article shall be a misdemeanor punishable by a fine of not less than \$1,000 for the first offense and \$2,000 for each additional offense occurring within one year and/or imprisonment for up to one year for each offense.
- B. This article shall not be construed to exclude any civil or criminal remedy provided by law for the enforcement of this Code or of the other laws of the Town of Elsmere or the County of New Castle, the State of Delaware or the United States of America.
- C. In addition to any other penalty that may be imposed hereunder, the owner of a premises who fails to abate a public nuisance, said owner having knowledge of same or having been given due notice as set forth in this article, shall be liable to reimburse the Town for its costs and expenses to abate such public nuisance, for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Said costs and expenses, if unpaid within 30 days of service on the owner of notice of amounts due, shall become a lien on the real property for said premises.

§ 145-6. Service of notice.

- A. A notice of violation that a prohibited conduct has occurred at a location shall be served by placing into the U.S. mail a notice of the violation and mailing same to the last known address of the owner of said property.
- B. The notice must contain the following:
  - (1) A statement of the date or dates upon which the prohibited conduct occurred at the property.
  - (2) The nature of the prohibited conduct and a directive that such conduct be abated within five days of the mailing of said notice.
  - (3) A copy of this code and a warning that if more than one additional violation for prohibited conduct as defined in this article occurs within one year of a previous violation, the owner will be subject to the penalties of this article, including but not limited to the Town seeking to place a lien or forfeiture pursuant to this article.

§ 145-7. Enforcement.

- A. Upon each offense for prohibited conduct, the Code Enforcement Officer may issue a summons to the owner, person in charge of said premises and/or the occupant of the residence.
- B. Upon a first offense for prohibited conduct, the Code Enforcement Department shall send the property owner or his or her agent a notice pursuant to the requirements of this article. Upon a second or subsequent offense for prohibited conduct occurring within one year of the first offense, a second or subsequent notice as described in this article shall be sent to the property owner or his or her agent.
- C. Upon failure of the owner to bring the building, residence, premises, structure, place or lot into compliance with the Town Code, the Town Attorney may apply to the appropriate court to appoint a temporary receiver to manage, operate and bring the building, residence, premises, structure, place or lot into compliance with the Code of the Town of Elsmere.

EXHIBIT

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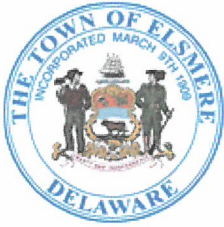
22-02 M



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22-02 N





EXHIBIT

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22-020

## THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

## \*\*\*\*\*CITATION\*\*\*\*\*

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

<b>RESPONSIBLE PARTY</b>	<b>CITATION #</b>	V2200309
SHAH KAUSHIK V	<b>OFFICER</b>	N. Nabb
PO BOX 3056	<b>VIOLATION DATE</b>	12/15/21
WILMINGTON, DE 19804	<b>PROPERTY ADDRESS</b>	10 WESTERN AV
	<b>ABATEMENT DATE</b>	12/20/21

On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
Box spring, maroon & tan recliner, 2 tires & broken lawn chairs in the side yard of the residence. Must be removed. Special pick-up by Republic Services may be required.	IPMC12-308.1 Garbage / rubbish	01/15/2022	\$ 100.00

## HOW YOU CAN AVOID PAYING THE FINE

If you have not received any citations for any violation within the last 12 months, the fine may be waived. You must take the required corrective action and abate the situation and bring proof of your actions to the Town's Code Enforcement Office within 48 hours of the violation date. If, in the opinion of the Code Enforcement Officer, the situation has been resolved and the violation no longer exists, the fine portion and only the fine portion of this summons, may be waived. The record of a violation occurring shall remain and the property may still be subject to fines associated with being deemed a repeated public nuisance.

## \*\*\*\*\*CITATION INFORMATION\*\*\*\*\*

In order to process your payment, please write the property address in violation in the memo section of the check or money order, and then mail it with the voucher below. You may also pay your fee in person at Town Hall, 11 Poplar Ave. Elsmere, DE 19805.

## ABATEMENT COST

If the violation noted above is not corrected by 4:00 pm. on the "ABATEMENT DATE" listed above, the Town will take action to abate the violation. If this becomes necessary, in addition to the fine already assessed, you will owe to the Town the costs of the abatement.

Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

**The "Amount Due" associated with this violation is a civil penalty and is due by no later than the "Due No Later Than." Additionally, if the violation is not abated by the "Abatement Date" shown above, the Town will take action to correct the violation. If this becomes necessary, you will be responsible for the payment of all abatement costs incurred by the Town. You must pay the amount due by the date shown below, even if the violation has been corrected.**

Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
01/15/2022	19-00500-054	V2200309	\$ 100.00

Mail Your Payment To:

The Town of Elsmere  
Finance Department  
11 Poplar Avenue  
Elsmere, DE 19805

Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty penalty.

You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation.

**MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.**

## APPEALS

**111.1 Application for appeal.**

Any person directly 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 Adjustments of the Town of Elsmere, 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 there under have been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the code: 1) provides the same or better protections than what the code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustments may, in its discretion, either enforce the code as written or permit the proposed alternative action.

**111.2 Notice of meeting.**

The Board of Adjustments shall meet upon notice from the chairman, and conduct the appeal hearing within 20 days of the filing of an appeal.

**111.3 Open hearing.**

All hearings before the Board of Adjustments shall be open to the public. The appellant, the appellant's representative, the code official and any person who has been called as a witness or whose interests are affected shall be given an opportunity to be heard.

**111.4 Procedure.**

The Board of Adjustments shall set and make available the procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**111.5 Postponed hearing.**

Either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**111.6 Board decision.**

After hearing the evidence provided at the hearing the Board of Adjustments shall modify or reverse the decision of the code official only by a concurring vote of a majority board members present.

**111.7 Records and copies.**

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

**111.8 Administration.**

The code official shall take immediate action in accordance with the decision of the Board of Adjustments.

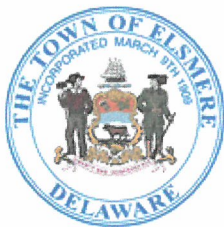
**111.9 Court review.**

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the decision of the Board of Adjustments.

**111.10 Stays of enforcement.**

Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustments.

This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbies

0202 Q

12/15/21

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

Re.: Tax Parcel 19-00500-054 *10 WESTERN AV*

Dear Property Owner,

Enclosed you will find a "Notice of Violation" which was issued due to conditions found at the property listed above. The records of the Town of Elsmere identify you as the owner of this property. Also enclosed, you will find a copy of Chapter 145 of the Code of the Town of Elsmere. Please take the time to review both of these documents thoroughly.

Based upon the violation listed in the enclosed "Notice of Violation", which states the date and time the prohibited conduct was observed at your property, as well as the nature of the prohibited conduct, your property has been deemed to be a "Public Nuisance" as defined in Chapter 145. Therefore, this property must be brought into compliance within five (5) days of the date of this letter. Should the prohibited conduct not be corrected within five days of the date of this letter, the Town of Elsmere will take steps to abate the referenced violation(s). Should this become necessary you, as the property owner, will be liable to reimburse the Town for its costs and expenses to abate the nuisance and for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Should these costs and expenses remain unpaid after 30 days, the amounts due shall become a lien upon your property.

Additionally Chapter 145 provides that if more than two violation for prohibited conduct as defined in the chapter occurs at this location within one year of a previous violation, the property will be deemed to be a "Repeated Public Nuisance", and as such, you as the owner, would face fines of not less than \$1,000.00 nor more than \$2,000.00, and could be found guilty of a misdemeanor punishable by imprisonment for up to one year for each offense.

Please carefully review the definition and penalties for a "Repeated Public Nuisance". If this latest violation is not the first violation to occur at property within one year, you will not be given additional warnings. Please contact me as soon as possible if you have any questions or are unsure of the potential penalties you, as the property owner, may be subject to.

Respectfully,

N. Nabb

Code Enforcement Officer

cc: file

**A Council - Manager Municipality**  
**Located on the Net at [townofelsmere.com](http://townofelsmere.com)**

Chapter 145

NUISANCES

ARTICLE 1

Nuisance Properties  
[Adopted 5-13-2004 by Ord. No. 430]

EXHIBIT

tabbies

22-02 R

§ 145-1. Findings.

The Mayor and Council finds and determines that the existence of buildings, structures, properties and open lots which are repeatedly in violation of or the subject of repeated neighborhood complaints concerning violations of the Property Maintenance Code, and the General Code of the Town of Elsmere, can have a devastating impact upon the use of such property as well as surrounding properties and upon the surrounding community, including the promotion of illegal activities, the threat to the public health, safety and welfare, the interference in the community's quality of life as well as the value of surrounding properties, and, therefore, constitute public nuisances that endanger the health, safety and general welfare of the people of the Town of Elsmere and to the businesses thereof and visitors thereto.

§ 145-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**OWNER** — Any person, individual, association, entity or corporation in whose name the affected real estate is recorded with the New Castle County Recorder of Deeds shall be presumed to be the owner thereof.

**PROHIBITED CONDUCT** — Any action or lack of action which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**PUBLIC NUISANCE** — A residence, premises, structure, place or lot, developed or undeveloped, which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**REPEAT PUBLIC NUISANCE** — Any building, residence, premises, structure, place or lot, developed or undeveloped, where an owner or agent has been given written notice by the Code Enforcement Office of the Town of Elsmere that public nuisance has taken place at said location and within one year of that notice there is more than one additional violation at that location for prohibited conduct for which the owner or agent is again notified in writing.

§ 145-3. Prohibited conduct.

It is a violation of this article for the owner or his or her agent, the lessee, renter, occupant or person in charge of any building, residence, premises, structure, place or lot, developed or undeveloped, to allow, cause, own, lease, permit, facilitate or maintain the creation or occurrence of a public nuisance or repeat public nuisance.

§ 145-4. Presumptions.

- A. It shall be a rebuttable presumption that more than two violations for prohibited conduct occurring within 12 months of each other have caused a repeat public nuisance to exist. This presumption shall be effective for any combination of three violations occurring within 12 months.
- B. Presumption of agency. Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way, in charge of the premises at the time a public nuisance exists, such evidence shall be presumptive that he or she was an agent of the property owner.

§ 145-5. Violations and penalties; liability for cost of abatement.

- A. In addition to any other penalties provided for in the Code of the Town of Elsmere for a violation of the Code, a violation of this article shall be a misdemeanor punishable by a fine of not less than \$1,000 for the first offense and \$2,000 for each additional offense occurring within one year and/or imprisonment for up to one year for each offense.
- B. This article shall not be construed to exclude any civil or criminal remedy provided by law for the enforcement of this Code or of the other laws of the Town of Elsmere or the County of New Castle, the State of Delaware or the United States of America.
- C. In addition to any other penalty that may be imposed hereunder, the owner of a premises who fails to abate a public nuisance, said owner having knowledge of same or having been given due notice as set forth in this article, shall be liable to reimburse the Town for its costs and expenses to abate such public nuisance, for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Said costs and expenses, if unpaid within 30 days of service on the owner of notice of amounts due, shall become a lien on the real property for said premises.

§ 145-6. Service of notice.

- A. A notice of violation that a prohibited conduct has occurred at a location shall be served by placing into the U.S. mail a notice of the violation and mailing same to the last known address of the owner of said property.
- B. The notice must contain the following:
  - (1) A statement of the date or dates upon which the prohibited conduct occurred at the property.
  - (2) The nature of the prohibited conduct and a directive that such conduct be abated within five days of the mailing of said notice.
  - (3) A copy of this code and a warning that if more than one additional violation for prohibited conduct as defined in this article occurs within one year of a previous violation, the owner will be subject to the penalties of this article, including but not limited to the Town seeking to place a lien or forfeiture pursuant to this article.

§ 145-7. Enforcement.

- A. Upon each offense for prohibited conduct, the Code Enforcement Officer may issue a summons to the owner, person in charge of said premises and/or the occupant of the residence.
- B. Upon a first offense for prohibited conduct, the Code Enforcement Department shall send the property owner or his or her agent a notice pursuant to the requirements of this article. Upon a second or subsequent offense for prohibited conduct occurring within one year of the first offense, a second or subsequent notice as described in this article shall be sent to the property owner or his or her agent.
- C. Upon failure of the owner to bring the building, residence, premises, structure, place or lot into compliance with the Town Code, the Town Attorney may apply to the appropriate court to appoint a temporary receiver to manage, operate and bring the building, residence, premises, structure, place or lot into compliance with the Code of the Town of Elsmere.

EXHIBIT

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22-02 S



EXHIBIT

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22-02 T

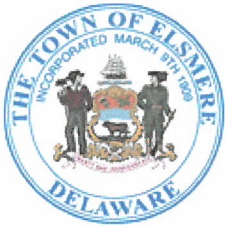


EXHIBIT

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22-02 U





## THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

### \*\*\*\*\*CITATION\*\*\*\*\*

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

<b>RESPONSIBLE PARTY</b>	<b>CITATION #</b>	V2200268
SHAH KAUSHIK V	<b>OFFICER</b>	N. Nabb
PO BOX 3056	<b>VIOLATION DATE</b>	10/29/21
WILMINGTON, DE 19804	<b>PROPERTY ADDRESS</b>	10 WESTERN AV
	<b>ABATEMENT DATE</b>	11/03/21

On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
Mattress, tires & broken grill in the side yard as well as 3 white appliances in the rear yard of the property. All must be removed. Special pick-up from Republic Services may be required.	IPMC12-308.1 Garbage / rubbish	11/29/2021	\$ 100.00

#### HOW YOU CAN AVOID PAYING THE FINE

If you have not received any citations for any violation within the last 12 months, the fine may be waived. You must take the required corrective action and abate the situation and bring proof of your actions to the Town's Code Enforcement Office within 48 hours of the violation date. If, in the opinion of the Code Enforcement Officer, the situation has been resolved and the violation no longer exists, the fine portion and only the fine portion of this summons, may be waived. The record of a violation occurring shall remain and the property may still be subject to fines associated with being deemed a repeated public nuisance.

#### \*\*\*\*\*CITATION INFORMATION\*\*\*\*\*

In order to process your payment, please write the property address in violation in the memo section of the check or money order, and then mail it with the voucher below. You may also pay your fee in person at Town Hall, 11 Poplar Ave. Elsmere, DE 19805.

#### ABATEMENT COST

If the violation noted above is not corrected by 4:00 pm. on the "ABATEMENT DATE" listed above, the Town will take action to abate the violation. If this becomes necessary, in addition to the fine already assessed, you will owe to the Town the costs of the abatement.

Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

**The "Amount Due" associated with this violation is a civil penalty and is due by no later than the "Due No Later Than." Additionally, if the violation is not abated by the "Abatement Date" shown above, the Town will take action to correct the violation. If this becomes necessary, you will be responsible for the payment of all abatement costs incurred by the Town. You must pay the amount due by the date shown below, even if the violation has been corrected.**

**Please return this section with your payment.**

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
11/29/2021	19-00500-054	V2200268	\$ 100.00

**Mail Your Payment To:**  
**The Town of Elsmere**  
**Finance Department**  
**11 Poplar Avenue**  
**Elsmere, DE 19805**

Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty penalty.

You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation.

**MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.**

EXHIBIT

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22-02 ✓

## APPEALS

EXHIBIT

tabbies

22-02 W

### 111.1 Application for appeal.

Any person directly 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 Adjustments of the Town of Elsmere, 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 there under have been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the code: 1) provides the same or better protections than what the code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustments may, in its discretion, either enforce the code as written or permit the proposed alternative action.

### 111.2 Notice of meeting.

The Board of Adjustments shall meet upon notice from the chairman, and conduct the appeal hearing within 20 days of the filing of an appeal.

### 111.3 Open hearing.

All hearings before the Board of Adjustments shall be open to the public. The appellant, the appellant's representative, the code official and any person who has been called as a witness or whose interests are affected shall be given an opportunity to be heard.

### 111.4 Procedure.

The Board of Adjustments shall set and make available the procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

### 111.5 Postponed hearing.

Either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

### 111.6 Board decision.

After hearing the evidence provided at the hearing the Board of Adjustments shall modify or reverse the decision of the code official only by a concurring vote of a majority board members present.

### 111.7 Records and copies.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

### 111.8 Administration.

The code official shall take immediate action in accordance with the decision of the Board of Adjustments.

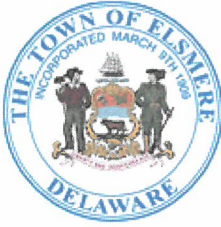
### 111.9 Court review.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the decision of the Board of Adjustments.

### 111.10 Stays of enforcement.

Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Adjustments.

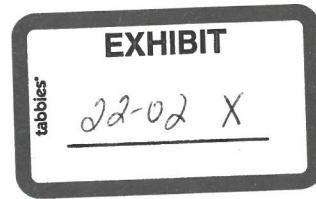
This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920



10/29/21

SHAH KAUSHIK V  
PO BOX 3056  
WILMINGTON, DE 19804

Re.: Tax Parcel 19-00500-054 *10 WESTERN AV*

Dear Property Owner,

Enclosed you will find a "Notice of Violation" which was issued due to conditions found at the property listed above. The records of the Town of Elsmere identify you as the owner of this property. Also enclosed, you will find a copy of Chapter 145 of the Code of the Town of Elsmere. Please take the time to review both of these documents thoroughly.

Based upon the violation listed in the enclosed "Notice of Violation", which states the date and time the prohibited conduct was observed at your property, as well as the nature of the prohibited conduct, your property has been deemed to be a "Public Nuisance" as defined in Chapter 145. Therefore, this property must be brought into compliance within five (5) days of the date of this letter. Should the prohibited conduct not be corrected within five days of the date of this letter, the Town of Elsmere will take steps to abate the referenced violation(s). Should this become necessary you, as the property owner, will be liable to reimburse the Town for its costs and expenses to abate the nuisance and for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Should these costs and expenses remain unpaid after 30 days, the amounts due shall become a lien upon your property.

Additionally Chapter 145 provides that if more than two violation for prohibited conduct as defined in the chapter occurs at this location within one year of a previous violation, the property will be deemed to be a "Repeated Public Nuisance", and as such, you as the owner, would face fines of not less than \$1,000.00 nor more than \$2,000.00, and could be found guilty of a misdemeanor punishable by imprisonment for up to one year for each offense.

Please carefully review the definition and penalties for a "Repeated Public Nuisance". If this latest violation is not the first violation to occur at property within one year, you will not be given additional warnings. Please contact me as soon as possible if you have any questions or are unsure of the potential penalties you, as the property owner, may be subject to.

Respectfully,

N. Nabb

Code Enforcement Officer  
cc: file

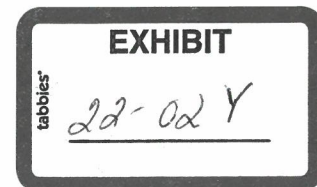
**A Council - Manager Municipality**  
**Located on the Net at [townofelsmere.com](http://townofelsmere.com)**

Chapter 145

NUISANCES

ARTICLE 1

Nuisance Properties  
[Adopted 5-13-2004 by Ord. No. 430]



§ 145-1. Findings.

The Mayor and Council finds and determines that the existence of buildings, structures, properties and open lots which are repeatedly in violation of or the subject of repeated neighborhood complaints concerning violations of the Property Maintenance Code, and the General Code of the Town of Elsmere, can have a devastating impact upon the use of such property as well as surrounding properties and upon the surrounding community, including the promotion of illegal activities, the threat to the public health, safety and welfare, the interference in the community's quality of life as well as the value of surrounding properties, and, therefore, constitute public nuisances that endanger the health, safety and general welfare of the people of the Town of Elsmere and to the businesses thereof and visitors thereto.

§ 145-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**OWNER** — Any person, individual, association, entity or corporation in whose name the affected real estate is recorded with the New Castle County Recorder of Deeds shall be presumed to be the owner thereof.

**PROHIBITED CONDUCT** — Any action or lack of action which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**PUBLIC NUISANCE** — A residence, premises, structure, place or lot, developed or undeveloped, which creates or results in the maintaining of or failure to abate a condition which is in violation of the codes of the Town of Elsmere or which endangers the safety, health or welfare of the public.

**REPEAT PUBLIC NUISANCE** — Any building, residence, premises, structure, place or lot, developed or undeveloped, where an owner or agent has been given written notice by the Code Enforcement Office of the Town of Elsmere that public nuisance has taken place at said location and within one year of that notice there is more than one additional violation at that location for prohibited conduct for which the owner or agent is again notified in writing.

§ 145-3. Prohibited conduct.

It is a violation of this article for the owner or his or her agent, the lessee, renter, occupant or person in charge of any building, residence, premises, structure, place or lot, developed or undeveloped, to allow, cause, own, lease, permit, facilitate or maintain the creation or occurrence of a public nuisance or repeat public nuisance.

§ 145-4. Presumptions.

- A. It shall be a rebuttable presumption that more than two violations for prohibited conduct occurring within 12 months of each other have caused a repeat public nuisance to exist. This presumption shall be effective for any combination of three violations occurring within 12 months.
- B. Presumption of agency. Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way, in charge of the premises at the time a public nuisance exists, such evidence shall be presumptive that he or she was an agent of the property owner.

§ 145-5. Violations and penalties; liability for cost of abatement.

- A. In addition to any other penalties provided for in the Code of the Town of Elsmere for a violation of the Code, a violation of this article shall be a misdemeanor punishable by a fine of not less than \$1,000 for the first offense and \$2,000 for each additional offense occurring within one year and/or imprisonment for up to one year for each offense.
- B. This article shall not be construed to exclude any civil or criminal remedy provided by law for the enforcement of this Code or of the other laws of the Town of Elsmere or the County of New Castle, the State of Delaware or the United States of America.
- C. In addition to any other penalty that may be imposed hereunder, the owner of a premises who fails to abate a public nuisance, said owner having knowledge of same or having been given due notice as set forth in this article, shall be liable to reimburse the Town for its costs and expenses to abate such public nuisance, for inspections and to maintain the property in a safe condition, including reasonable attorneys' fees. Said costs and expenses, if unpaid within 30 days of service on the owner of notice of amounts due, shall become a lien on the real property for said premises.

§ 145-6. Service of notice.

- A. A notice of violation that a prohibited conduct has occurred at a location shall be served by placing into the U.S. mail a notice of the violation and mailing same to the last known address of the owner of said property.
- B. The notice must contain the following:
  - (1) A statement of the date or dates upon which the prohibited conduct occurred at the property.
  - (2) The nature of the prohibited conduct and a directive that such conduct be abated within five days of the mailing of said notice.
  - (3) A copy of this code and a warning that if more than one additional violation for prohibited conduct as defined in this article occurs within one year of a previous violation, the owner will be subject to the penalties of this article, including but not limited to the Town seeking to place a lien or forfeiture pursuant to this article.

§ 145-7. Enforcement.

- A. Upon each offense for prohibited conduct, the Code Enforcement Officer may issue a summons to the owner, person in charge of said premises and/or the occupant of the residence.
- B. Upon a first offense for prohibited conduct, the Code Enforcement Department shall send the property owner or his or her agent a notice pursuant to the requirements of this article. Upon a second or subsequent offense for prohibited conduct occurring within one year of the first offense, a second or subsequent notice as described in this article shall be sent to the property owner or his or her agent.
- C. Upon failure of the owner to bring the building, residence, premises, structure, place or lot into compliance with the Town Code, the Town Attorney may apply to the appropriate court to appoint a temporary receiver to manage, operate and bring the building, residence, premises, structure, place or lot into compliance with the Code of the Town of Elsmere.

EXHIBIT

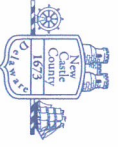
22-02 Z

tabbles'



19-00500-054

Author:



New Castle County Delaware GIS: <https://gis.ncde.org>  
Disclaimer: For informational purposes only - not to be used as official documentation.



0 0.005 0.01  
mi

Date: 3/15/2022

**Parcel # 1900500054**

Property Address: 10 WESTERN AVE  
WILMINGTON, DE 19805-

Subdivision: ELSMERE

Owner: SHAH KAUSHIK V  
PO BOX 3056

Owner Address:  
WILMINGTON, DE 19804

Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

**EXHIBIT**

tabbles

22-02 AA

Lot #: P 93  
Location:  
Map Grid: 09603560  
Block:  
Census Tract: 123.00  
Street Type: FEEDER  
Water: PUBLIC  
Microfilm #: 000215

Property Class: RESIDENTIAL  
Lot Size: 0.09  
Lot Depth: 150  
Lot Frontage: 24.90  
Street Finish:

**District & Zoning Info****Districts**

- **FIRE/RESCUE - ELSMERE**
- **RED CLAY SCHOOL DIST-TRES**
- DE SEN 07-SPIROS MANTZAVINOS
- TRAFFIC ZONE T084 (YR2000)
- NORTH OF C&D CANAL
- COUNCIL 1 - KENNETH R WOODS
- ADD REQ PER SEC 10.3.4.4 DSSR
- SEWER DISTRICT NORTHERN-ASMT
- PLANNING 8 - LOWER CHRISTINA
- DE REP 13-JOHN L MITCHELL JR

**Zoning**

- 19R1 - ONE FAMILY DWELLING

**Deed History**

Grantee(s)	Deed	Multi?	Sale Date	Sale Amount
GALLAGHER CHARLES W JR & DOUGHERTY CATHY G	Z66 75	N	11/2/1960	\$10.00
SHAH KAUSHIK V & MEENAXHI K	WR126191	N	10/27/2001	\$0.00
SHAH KAUSHIK V	20020628 0062826	N	6/26/2002	\$77,000.00
	WR167822	Y	10/5/2017	\$0.00

**Tax/Assessment Info****Assessment**

Land: 6600  
Structure: 30700  
Homesite: 0  
Total: 37300  
County Taxable: 37300  
School Taxable: 37300

**Tax Bills as of 3/15/2022 3:00:30 AM**

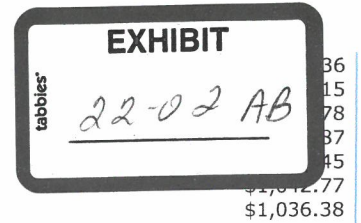
Tax Year	County			School		
	Principal Due	Penalty Due	Amt Paid	Principal Due	Penalty Due	Amt Paid
2010A	\$0.00	\$0.00	\$125.58	\$0.00	\$0.00	\$680.35
2011A	\$0.00	\$0.00	\$127.86	\$0.00	\$0.00	\$672.52
2012A	\$0.00	\$0.00	\$128.22	\$0.00	\$0.00	\$664.69
2013A	\$0.00	\$0.00	\$127.49	\$0.00	\$0.00	\$705.34
2014A	\$0.00	\$0.00	\$127.97	\$0.00	\$0.00	\$717.76
2015A	\$0.00	\$0.00	\$127.51	\$0.00	\$0.00	\$797.85
2016A	\$0.00	\$0.00	\$127.20	\$0.00	\$0.00	\$869.95
2017A	\$0.00	\$0.00	\$127.87	\$0.00	\$0.00	\$922.91
2018A	\$0.00	\$0.00	\$136.92	\$0.00	\$0.00	\$917.95
2019A	\$0.00	\$0.00	\$126.79	\$0.00	\$0.00	\$924.66
2020A	\$0.00	\$0.00	\$118.11	\$0.00	\$0.00	\$924.66
2021A	\$0.00	\$0.00	\$116.01	\$0.00	\$0.00	\$920.37

**Tax Payments as of 3/15/2022 3:00:30 AM**

Date Paid	Amt Paid
9/21/2010	\$805.93
9/22/2011	\$800.38
10/1/2012	\$128.22
10/1/2012	\$664.69
9/26/2013	\$832.83
9/18/2014	\$845.73

3/15/22, 10:17 AM

New Castle County, DE - Parcel # 1900500054



9/17/2015  
9/27/2016  
9/21/2017  
9/25/2018  
9/24/2019  
9/28/2020  
9/13/2021

County Balance Due: \$0.00

School Balance Due: \$0.00

These amounts are valid through the last day of the month. For accounts with delinquent balances, statutory penalty will accrue on the first day of next month.

\$1,012.77  
\$1,036.38

## Sewer History as of 3/15/2022 3:01:34 AM

Tax Year	Principal Due	Penalty Due	Date Paid	Amount Paid
2007S1	\$0.00	\$0.00	3/1/2007	\$148.73
2008S1	\$0.00	\$0.00	3/3/2008	\$83.66
2009S1	\$0.00	\$0.00	3/3/2009	\$130.14
2010S1	\$0.00	\$0.00	3/1/2010	\$153.39
2011S1	\$0.00	\$0.00	3/1/2011	\$138.25
2012S1	\$0.00	\$0.00	3/2/2012	\$132.60
2013S1	\$0.00	\$0.00	3/4/2013	\$88.40
2014S1	\$0.00	\$0.00	2/25/2014	\$206.65
2015S1	\$0.00	\$0.00	3/2/2015	\$470.71
2016S1	\$0.00	\$0.00	2/29/2016	\$367.38
2017S1	\$0.00	\$0.00	2/10/2017	\$218.13
2018S1	\$0.00	\$0.00	2/1/2018	\$275.54
2019S1	\$0.00	\$0.00	1/31/2019	\$347.18
2020S1	\$0.00	\$0.00	2/10/2020	\$372.89
2021S1	\$0.00	\$0.00	2/11/2021	\$257.17
2022S1	\$0.00	\$0.00	3/1/2022	\$320.74

Balance Due: \$0.00

These amounts are valid through the last day of the month. Statutory penalty will accrue on the first day of next month.

## Residence Characteristics

Residence 0

Building Design: ROW END	Residence Class: SFD PLATTED LOT
Grade: AVERAGE	Condition: AVERAGE
Year Built: 1954	# Stories: 2
Total Area (sq. ft.): 1200	Main Floor Area: 600
# Rooms: 6	# Bedrooms: 3
# 1/2 Baths: 0	# Full Baths: 1
# Fam. Rooms: 0	# Fixtures: 5
Roof Type: FLAT	Roof Material: ASPHALT
Exterior Wall: BRICK	Interior Wall Finish: DRYWALL
Floor Finish: WOOD	Foundation: CONTINUOUS
Garage Capacity: 0	Basement %: 100%
Basement % Finished:	Basement Finish Type:
Attic % Finished:	
Unfinished %:	Unfinished Area: 0
Heat Type: HOTWATER	Air Conditioning:
Remodel Year: 0	