**EXHIBIT**

tabbles

22-09 A

**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.

Date this Appeal was filed: 12/5/2022**Petition Number:** 22-09**Date of the Original Action:** 12/01/2022**Tax Parcel Number:** 19-8-106**Subject Property Address:** 1330 Maple Avenue**Property Owner's Name:** EN Properties Holdings LLC**Phone Number:** 302-690-7822**Property Owners Address:** PO Box 1221, Hockessin, DE 19707**Applicant's Name:** Nazir Nisar**Applicant's Address:** 11 Foxview Circle Hockessin, DE 19707**Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.)**
V2300301**Reason for the Appeal:** Why is there a citation charges, when you send me a response back that the issue was self resolved? I would like to schedule a hearing with the board and need explanation why you charge me \$2000 in month of August, and \$2000 now.**Relief sought:** \$4000,**Applicant's Signature:****Date:**

10/10/2022

Nicole Facciolo

EXHIBIT

tabbies

22-09 B

From: Scott Allen
Sent: Tuesday, December 6, 2022 8:05 AM
To: nazir nisar; Nicole Facciolo; dlardani@townofelsemere.com
Subject: RE: Appealing Citation # V2300301

Sure,

The fee is \$300.

Scott Allen
Code Enforcement Officer
Town of Elsmere
11 Poplar Avenue
Elsmere, DE 19805
Phone: (302) 998-2215

From: nazir nisar <cpqn2003@yahoo.com>
Sent: Monday, December 5, 2022 4:40 PM
To: Nicole Facciolo <nnabb@townofelsmere.com>; dlardani@townofelsemere.com; Scott Allen <sallen@townofelsmere.com>
Subject: Re: Appealing Citation # V2300301

Thanks. I just filled the application; how much is the fee so I can put it in the mail tomorrow.

On Monday, December 5, 2022 at 03:55:47 PM EST, Scott Allen <sallen@townofelsmere.com> wrote:

Good afternoon Nazir,

We can certainly place you on the next Board of Adjustment agenda scheduled for January 24, 2023.

Additionally, the property is still currently in violation for non-renewal of the rental license. The annual renewal form was mailed out in September and a reminder was sent out mid-October. As of November 1st, the property is operating as an unregistered rental property.

Scott Allen

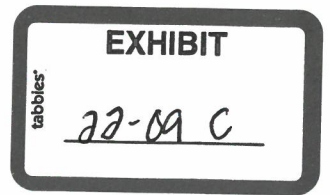
Code Enforcement Officer

Town of Elsmere

11 Poplar Avenue

Elsmere, DE 19805

Phone: (302) 998-2215



From: nazir nisar <cpqn2003@yahoo.com>

Sent: Monday, December 5, 2022 2:01 PM

To: Scott Allen <sallen@townofelsmere.com>; Nicole Facciolo <nnabb@townofelsmere.com>;
dlardani@townofelsemere.com

Subject: Appealing Citation # V2300301

Hello,

I am appealing this citation and requesting a hearing with the board.

Thanks,

Nazir



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

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

RESPONSIBLE PARTY	CITATION #	V2300301
EN PROPERTY HOLDINGS LLC	OFFICER	S. Allen
PO BOX 1221	VIOLATION DATE	12/01/22
HOCKESSIN, DE 19707	PROPERTY ADDRESS	1330 MAPLE AVE
	ABATEMENT DATE	

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 in the 2nd or subsequent occurrence for 3 or more violations occurring within the last 12 months on the following dates: 4/25/2022 (x2), 5/18/2022, 6/1/2022, 7/11/2022 (x3), 8/1/2022, and 11/9/2022.	CH 145 2ND Repeat Public Nuisance - 2nd or subsequent occurrence within 12 month period.	1/1/2023	\$ 2,000.00

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.

Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
1/1/2023	19-00800-106	V2300301	\$ 2,000.00

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.

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

tabbles

22-09 F

12/01/22

EN PROPERTY HOLDINGS LLC
PO BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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

NUISANCES

ARTICLE I

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

EXHIBIT

tabbies

22-09 G**§ 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.

TOWN OF ELSMERE

11 POPLAR AVENUE

ELSMERE, DE 19805

ATTN: SCOTT ALLEN

TEL: (302)998-2215

FAX: (302)998-9920

EXT: 104

EXHIBIT

tabbles

22-09 H

INVOICE NO.

I2301487

INVOICE DATE: 12/01/22

DUE DATE: 12/31/22

CUSTOMER #: C-000771

EN PROPERTIES LLC

915 BALTIMORE AVENUE

WILMINGTON, DE 19805

VIOLATION INFORMATION

VIOLATION ID: V2300301

LOCATION: 1330 MAPLE AVE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
..00/1	CODE-NU2	VIOLATION OF CHAPTER 145 1330 Maple Avenue Code of the Town of Elsmere Chapter 145 - This property has been deemed a repeated public nuisance in the 2nd or subsequent occurrence for 3 or more violations occurring within the last 12 months on the following dates: 4/25/2022 (x2), 5/18/2022, 6/1/2022, 7/11/2022 (x3), 8/1/2022, and 11/9/2022.	2,000.000000	2,000.00
			TOTAL INVOICE	2,000.00

TOWN OF ELSMERE
11 POPLAR AVE
ELSMERE, DE 19805

EN PROPERTIES LLC
915 BALTIMORE AVENUE
WILMINGTON, DE 19805

Invoice Id: I2301487

Customer Id: C-000771 PIN: 5592

Due Date: 12/31/22

Total Due: 2,000.00





THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC PO BOX 1221 HOCKESSIN, DE 19707	CITATION #	V2300270
	OFFICER	N. Facciolo
	VIOLATION DATE	11/09/22
	PROPERTY ADDRESS	1330 MAPLE AVE
	ABATEMENT DATE	11/14/22

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
White trash bags and other miscellaneous junk and debris in the front yard of the property. Must be removed & disposed of properly.	IPMC12-308.1 Garbage / rubbish	12/09/2022	\$ 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
12/09/2022	19-00800-106	V2300270	\$ 100.00

Mail Your Payment To:

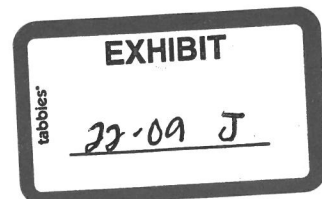
**The Town of Elsmere
Finance Department
11 Poplar Avenue
Elsmere, DE 19805**

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.

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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.

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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.

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

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The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

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



11/09/22

EN PROPERTY HOLDINGS LLC
PO BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

Dear Property Owner,

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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. Facciolo

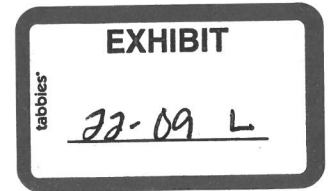
Code Enforcement Officer
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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.

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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

tabbles

22-09 m

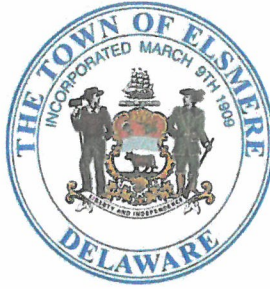


EXHIBIT

tabbles

22-09 N





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.

Date this Appeal was filed: 10/11/2022

Petition Number:

Date of the Original Action: 08/01/22

Tax Parcel Number: 1900800-16

Subject Property Address: 1330 Maple Avenue

Property Owner's Name: EN Properties Holdings LLC

Phone Number: 302-690-7822

Property Owners Address: PO Box 1221, Hockessin, DE 19707

Applicant's Name: Nazir Nisar

Applicant's Address: 11 Foxview Circle Hockessin, DE 19707

Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.)
V2300071

Reason for the Appeal: There was a pool inside the property, which the tenant immediately removed upon receiving the warning. We already paid for citation for this. I am not sure why we are getting 2000 citation for nothing. Did the town incur any expenses by addressing any issues. Of course not. What am I being charged for when I already paid the citation for the pool? Now this charge is moved to my taxes, and I am being charged \$185 late fee. For what? Is this really my tax bill?

Relief sought: 2000

Applicant's Signature:  **Date:** 10/10/2022

Nicole Facciolo

EXHIBIT

tabbles

22-09 P

From: Scott Allen
Sent: Wednesday, October 12, 2022 11:16 AM
To: nazir nisar; Nicole Facciolo; dlardani@townofelsemere.com
Subject: RE: Appealing Citation # V2300071

Good morning,

The date on this citation you wish to appeal is dated August 1, 2022. According to our code, application to appeal must be filed within 20 days after the order was served.

Therefore, we will not hear the appeal. Please see the back of the citation for the section of the code pertaining to the appeal process.

Scott Allen

Code Enforcement Officer
Town of Elsmere
11 Poplar Avenue
Elsmere, DE 19805
Phone: (302) 998-2215

From: nazir nisar <cpqn2003@yahoo.com>
Sent: Tuesday, October 11, 2022 2:59 PM
To: Scott Allen <sallen@townofelsmere.com>; Nicole Facciolo <nnabb@townofelsmere.com>; dlardani@townofelsemere.com
Subject: Appealing Citation # V2300071

Hello,
I am appealing the above citation which is now showing on my tax bill. Attached is my appeal form. Please let me know when the board hearing will be scheduled.

Thanks,
Nazir



THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY	CITATION #	V2300071
EN PROPERTY HOLDINGS LLC	OFFICER	S. Allen
PO BOX 1221	VIOLATION DATE	08/01/22
HOCKESSIN, DE 19707	PROPERTY ADDRESS	1330 MAPLE AVE
	ABATEMENT DATE	

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 in the 2nd or subsequent offense for 3 or more violations within a 12 month period occurring on the following dates: 09/21/2021, 04/25/2022 x2, 05/18/2022, 06/01/2022 & 07/11/2022.	CH 145 2ND Repeat Public Nuisance - 2nd or subsequent occurrence within 12 month period.	09/01/2022	\$ 2,000.00

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.

Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
09/01/2022	19-00800-106	V2300071	\$ 2,000.00

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

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.

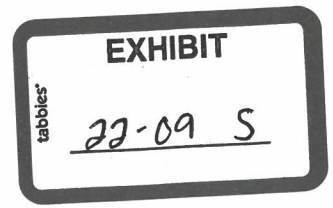
This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805



The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

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



08/01/22

EN PROPERTY HOLDINGS LLC
PO BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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

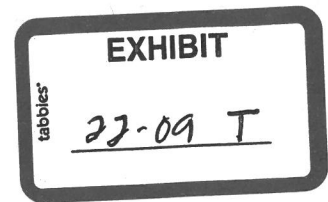
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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.

TOWN OF ELSMERE

11 POPLAR AVENUE

ELSMERE, DE 19805

ATTN: SCOTT ALLEN

TEL: (302)998-2215

FAX: (302)998-9920

EXT: 104

EXHIBIT

tabbles

22-09 u

INVOICE NO.

I2300088

INVOICE DATE: 08/01/22

DUE DATE: 08/31/22

CUSTOMER #: C-002329

EN PROPERTY HOLDINGS LLC

P O BOX 1221

HOCKESSIN, DE 19707

VIOLATION INFORMATION

VIOLATION ID: V2300071

LOCATION: 1330 MAPLE AVE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00/1	CODE-NU2	VIOLATION OF CHAPTER 145 1330 MAPLE AVENUE TOWN OF ELSMERE CODE CHAPTER 145 - This property has been deemed a Repeated Public Nuisance in the 2nd or subsequent offense for 3 or more violations within a 12 month period occurring on the following dates: 09/21/2021, 04/25/2022 x2, 05/18/2022, 06/01/2022 & 07/11/2022.	2,000.000000	2,000.00
			TOTAL INVOICE	2,000.00
		If this invoice is not paid by the due date, the amount due will be charged to your property taxes as a <u>SPECIAL TAX LIEN!</u>		

TOWN OF ELSMERE
11 POPLAR AVE
ELSMERE, DE 19805

Invoice Id: I2300088

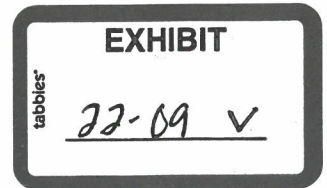
Customer Id: C-002329 PIN: 725748

Due Date: 08/31/22

Total Due: 2,000.00

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707





THE TOWN OF ELSMERE
DEPARTMENT OF CODE ENFORCEMENT

11 Poplar Avenue – Elsmere, DE 19805

Phone: 302-998-2215

Fax: 302-998-9920

SWIMMING POOL PERMIT

Permit No.: P2300009

Issued on: 07/13/22

Issued to the following type of property: R-2 RES; TWO FAMILY SEMIDETACHED

Located at 1330 MAPLE AVE

Located in: Town of Elsmere, County of New Castle, and State of Delaware

Further known as Parcel Number: 19-00800-106

Scope of the work covered under this permit:

Installation of a temporary 3 ft pool.

A final inspection is required once all work is complete and prior to occupancy or operation.

This permit is to be prominently displayed in the front window of the property in plain view as required by the provisions of the code. Expiration of this permit is 180 days if work has not been started. 24 -hour notice is required for all necessary inspections in accordance with the Building and/or Residential Code.

This permit is hereby granted in accordance with the *Town of Elsmere Code*, and the *2012 Edition of the International Swimming Pool and Spa Code*. Separate permits are required for any plumbing, Heating, HVAC and Electrical work.

** If a dumpster is needed at the above mentioned address and that dumpster will be on the Town of Elsmere streets a separate dumpster permit will be required.*

For Inspections, please call the Code Enforcement Office: 302-998-2215

ALL PERMITS REQUIRE
A FINAL INSPECTION

X *A. Alk*
Code Enforcement Officer

7/13/2022
Date



THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC PO BOX 1221 HOCKESSIN, DE 19707	CITATION #	V2300020
	OFFICER	N. Facciolo
	VIOLATION DATE	07/11/22
	PROPERTY ADDRESS	1330 MAPLE AVE
	ABATEMENT DATE	07/16/22

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
Unpermitted pool in the rear yard is in disrepair (hole in the liner) and is draining into the alley.	IPMC12-303.1 Swimming pool maintenance	08/11/2022	\$ 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
08/11/2022	19-00800-106	V2300020	\$ 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.

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

tabbles

22-09 X

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.

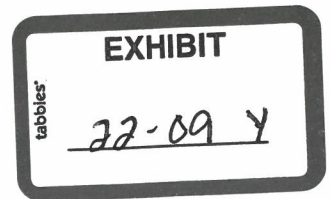
This civil penalty is imposed pursuant to Section 171-4 of The Town of Elsmere Code for violating the Town of Elsmere's Property Maintenance Code (Chapter 171). The Town of Elsmere Code is available for your inspection at the Town Hall, 11 Poplar Avenue, Elsmere, DE 19805



The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

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



07/11/22

EN PROPERTY HOLDINGS LLC
PO BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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. Facciolo

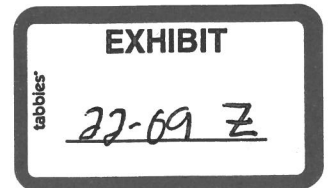
Code Enforcement Officer
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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

RESPONSIBLE PARTY	CITATION #	V2300019
EN PROPERTY HOLDINGS LLC	OFFICER	N. Facciolo
PO BOX 1221	VIOLATION DATE	07/11/22
HOCKESSIN, DE 19707	PROPERTY ADDRESS	1330 MAPLE AVE
	ABATEMENT DATE	07/16/22

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
Unpermitted pool in the rear yard. Must apply for a permit or be removed completely.	60-7 Failure to obtain a permit or license	08/11/2022	\$ 300.00

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
08/11/2022	19-00800-106	V2300019	\$ 300.00

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

22-09 AC

07/11/22

EN PROPERTY HOLDINGS LLC
PO BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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. Facciolo

Code Enforcement Officer

cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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.

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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

tabbles

22-09 AE

THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC PO BOX 1221 HOCKESSIN, DE 19707	CITATION # V2300018 OFFICER N. Facciolo VIOLATION DATE 07/11/22 PROPERTY ADDRESS 1330 MAPLE AVE ABATEMENT DATE 07/16/22
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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
Fence materials & a taken apart trampoline in the rear parking area across from the alley. Must be removed. Special pick-up by Republic Services may be required.	IPMC12-308.1 Garbage / rubbish	08/11/2022	\$ 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
08/11/2022	19-00800-106	V2300018	\$ 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.

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.

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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.

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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.

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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.

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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.

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The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

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

EXHIBIT

tabbles

22-09 AG

07/11/22

EN PROPERTY HOLDINGS LLC
PO BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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Respectfully,

N. Facciolo

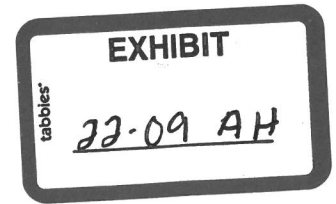
Code Enforcement Officer
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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.

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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

tabbles

22-09 AI



EXHIBIT

tabbles

22-09 AJ



EXHIBIT

tabbies

22-09 AK



tabbles

EXHIBIT

22-09 AL



SECLICKFIX ID
12826982

PRIORITY
Normal

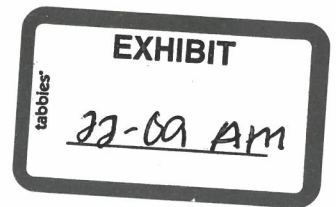
REQUEST TYPE
Other

ADDRESS
1330 Maple Ave Wilmington, Delaware, 19805

ASSIGNEE
Nicole Facciolo

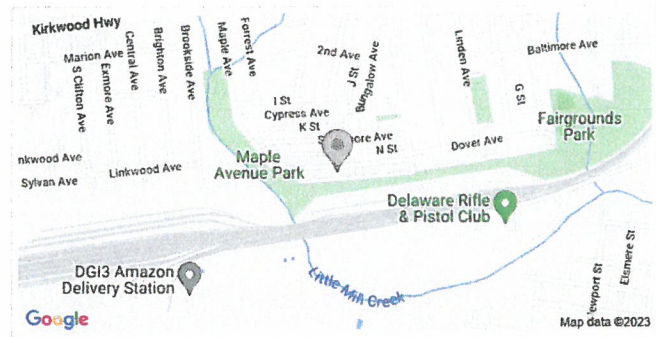
SLA EXPIRES
July 14, 2022 15:15
4 days late

REPORTED
July 11, 2022 15:15



SECONDARY QUESTIONS

LOCATION



SUMMARY & DESCRIPTION

Multiple Violations

Fence materials & a taken apart trampoline in the rear parking area, an unpermitted pool in the rear yard that also has a hole in it and is draining throughout the M Street Alley

Reported by: Nicole Facciolo 07/11/2022 - 03:15PM

MEDIA



TIMESTAMP INTERNAL COMMENT

COMMENTER

July 11, 2022 15:16		Elsmere, DE assigned this issue to Denise Lardani	Elsmere, DE
July 11, 2022 15:16		Assigned to observing code officer.	Nicole Facciolo
July 11, 2022 15:16	Yes	Nicole Facciolo assigned this issue to Nicole Facciolo	Nicole Facciolo
July 11, 2022 15:16	Yes	Due date changed from July 14, 2022 to July 19, 2022	Nicole Facciolo
July 11, 2022 15:18		While regularly patrolling this morning, I observed fence materials & a taken apart trampoline in the rear parking area and an unpermitted pool in the rear yard that also has a hole in it and is draining throughout the M Street Alley. Photos were obtained. Issued 3 total citations and posted to the front door of the residence. A copy of each was mailed to the owner via USPS.	Nicole Facciolo

July 11,
2022 15:18

View of the hole where the water is draining.

July 11,
2022 15:19

View of the unpermitted pool.

July 18,
2022 11:44

Performed a follow-up this morning and observed that the violations had been corrected. No further action will be taken at this time.

July 18,
2022 11:45

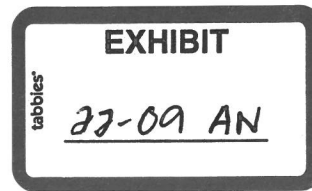
This case has been closed. No further action will be taken at this time.

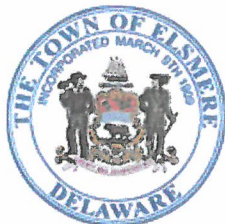
Nicole
Facciolo

Nicole
Facciolo

Nicole
Facciolo

Nicole
Facciolo





THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC P O BOX 1221 HOCKESSIN, DE 19707	CITATION #	V2200706
	OFFICER	S. Allen
	VIOLATION DATE	06/01/22
	PROPERTY ADDRESS	1330 MAPLE AVE
	ABATEMENT DATE	

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 3 or more violations within a 12 month period occurring on the following dates: 09/21/2021, 04/25/2022 (x2) & 05/18/2022.	CH 145 Repeat Public Nuisance Property	07/01/2022	\$ 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.

Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
07/01/2022	19-00800-106	V2200706	\$ 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

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

22-09 AQ

06/01/22

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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

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.

TOWN OF ELSMERE

11 POPLAR AVENUE

ELSMERE, DE 19805

ATTN: SCOTT ALLEN

TEL: (302)998-2215

FAX: (302)998-9920

EXT: 104

EXHIBIT

tabbles

22-09 AS

INVOICE NO.

I2201789

INVOICE DATE: 05/31/22

DUE DATE: 06/30/22

CUSTOMER #: C-002329

EN PROPERTY HOLDINGS LLC

P O BOX 1221

HOCKESSIN, DE 19707

VIOLATION INFORMATION

VIOLATION ID: V2200706

LOCATION: 1330 MAPLE AVE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00/1	CODE-NU1	CHAPTER 145-NUISANCE PROPERTY 1330 Maple Avenue Code of the Town of Elsmere Chapter 145 - This property has been deemed a Repeated Public Nuisance for 3 or more violations within a 12 month period occurring on the following dates: 09/21/2021, 04/25/2022 (x2) & 05/18/2022. If this invoice is not paid by the due date, the amount due will be charged to your property taxes as a <u>SPECIAL TAX LIEN!</u> 8-106	1,000.000000 TOTAL INVOICE	1,000.00 1,000.00

TOWN OF ELSMERE

11 POPLAR AVE

ELSMERE, DE 19805

EN PROPERTY HOLDINGS LLC

P O BOX 1221

HOCKESSIN, DE 19707

Invoice Id: I2201789

Customer Id: C-002329 PIN: 725748

Due Date: 06/30/22

Total Due: 1,000.00



SECLICKFIX ID
12234132

PRIORITY
Normal

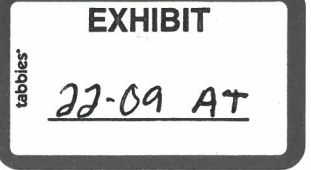
REQUEST TYPE
High Grass & Weeds

ADDRESS
1330 Maple Ave Wilmington, Delaware, 19805

ASSIGNEE
Nicole Facciolo

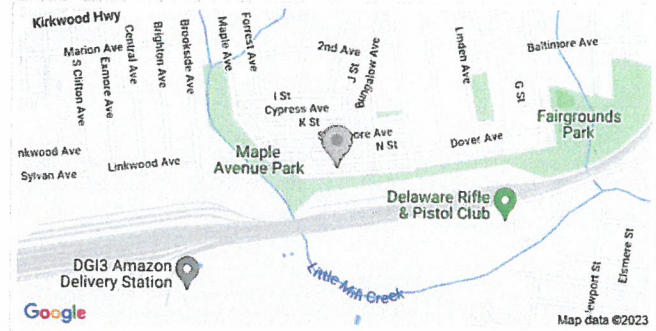
SLA EXPIRES
April 28, 2022 15:35
about 1 month late

REPORTED
April 25, 2022 15:35



SECONDARY QUESTIONS

LOCATION



SUMMARY & DESCRIPTION

High Grass & Weeds

High grass and weeds above 8 inches tall throughout the property AND the wooden fence in disrepair.

Reported by: Nicole Facciolo 04/25/2022 - 03:35PM

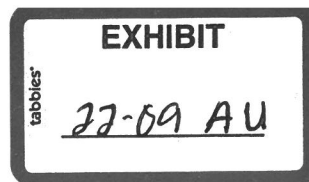
MEDIA



TIMESTAMP INTERNAL COMMENT

COMMENTER

April 25, 2022 15:35	Elsmere, DE assigned this issue to Nicole Facciolo	Elsmere, DE
April 25, 2022 15:35	Assigned to observing code officer.	Nicole Facciolo
April 25, 2022 15:35	Yes Due date changed from April 28, 2022 to May 10, 2022	Nicole Facciolo
April 25, 2022 15:37	While regularly patrolling this morning, I observed high grass and weeds above 8 inches tall throughout the property AND the wooden fence is in a state of disrepair. Photos were obtained. Issued 2 total citations and posted to the front door of the residence. A copy of each was mailed to the owner via USPS.	Nicole Facciolo
April 25, 2022 15:37	Fence photo 1	Nicole Facciolo
April 25, 2022 15:37	Fence photo 2	Nicole Facciolo



April 25, 2022 15:37		Rear parking area photo	Nicole Facciolo
April 27, 2022 12:53		Performed a follow-up this morning and observed that the violation for high grass had been corrected. No further action will be taken at this time for that violation.	Nicole Facciolo
April 28, 2022 12:06		Performed a follow-up this morning and observed that the violation for the fence has not been corrected. Issued an invoice and I will be posting to the front door of the residence this afternoon. A copy was mailed to the owner via USPS as well.	Nicole Facciolo
April 28, 2022 14:58		Posted invoice photo for the fence	Nicole Facciolo
May 10, 2022 09:02		Performed another follow-up yesterday morning and observed that the violation has not been corrected. I will be giving the property until Friday to correct the fence violation and if it is not corrected, I will be re-issuing the violation.	Nicole Facciolo
May 10, 2022 09:02	Yes	Due date changed from May 10, 2022 to May 16, 2022	Nicole Facciolo
May 13, 2022 15:06	Yes	Due date changed from May 16, 2022 to May 17, 2022	Nicole Facciolo
May 16, 2022 12:03	Yes	Due date changed from May 17, 2022 to May 20, 2022	Nicole Facciolo
May 18, 2022 15:00		As of today's date, the violation for the fence still has not been corrected. Re-issued the original citation and posted to the front door of the residence. A copy was mailed to the registered owner of the property via USPS as well.	Nicole Facciolo
May 18, 2022 15:01	Yes	Due date changed from May 20, 2022 to May 27, 2022	Nicole Facciolo
May 26, 2022 12:01	Yes	Due date changed from May 27, 2022 to June 03, 2022	Nicole Facciolo
May 31, 2022 12:09		Performed a follow-up this morning and observed that the violation had been corrected. No further action will be taken at this time.	Nicole Facciolo
May 31, 2022 12:10		This case has been closed. No further action will be taken at this time.	Nicole Facciolo



EXHIBIT

tabbies

22-09 AV

THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC P O BOX 1221 HOCKESSIN, DE 19707	CITATION # V2200670 OFFICER N. Facciolo VIOLATION DATE 05/18/22 PROPERTY ADDRESS 1330 MAPLE AVE ABATEMENT DATE 05/23/22
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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
*** SECOND NOTICE *** Wooden fence in the rear yard is in a state of disrepair. Must be repaired or replaced.	IPMC12-302.7 Accessory structure	06/18/2022	\$ 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
06/18/2022	19-00800-106	V2200670	\$ 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.

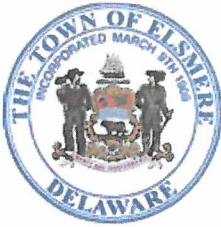
111.9 Court review.

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

tabbles

22-09 AX

05/18/22

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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. Facciolo

Code Enforcement Officer
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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

tabbles

22-09 AZ



TOWN OF ELSMERE

11 POPLAR AVENUE
ELSMERE, DE 19805

ATTN: SCOTT ALLEN

TEL: (302)998-2215

FAX: (302)998-9920

EXT: 104

EXHIBIT

tabbles

22-09 BA

INVOICE NO.

I2201692

INVOICE DATE: 04/28/22

DUE DATE: 05/28/22

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

CUSTOMER #: C-002329

VIOLATION INFORMATION

VIOLATION ID: V2200568

LOCATION: 1330 MAPLE AVE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	CODE-CT2	CODE CITATION 1330 MAPLE AVENUE IPMC 2012 CHAPTER 302.7 - Wooden fence in the rear yard is in a state of disrepair. Must be repaired or replaced.	100.000000	100.00
			TOTAL INVOICE	100.00
		8-106		
		If this invoice is not paid by the due date, the amount due will be charged to your property taxes as a <u>SPECIAL TAX LIEN!</u>		

TOWN OF ELSMERE
11 POPLAR AVE
ELSMERE, DE 19805EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Invoice Id: I2201692

Customer Id: C-002329 PIN: 725748

Due Date: 05/28/22

Total Due: 100.00

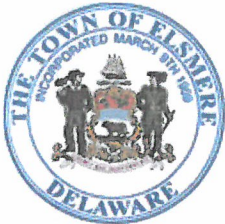


EXHIBIT

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22-09 BB





THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC P O BOX 1221 HOCKESSIN, DE 19707	CITATION # V2200567 OFFICER N. Facciolo VIOLATION DATE 04/25/22 PROPERTY ADDRESS 1330 MAPLE AVE ABATEMENT DATE 04/30/22
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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
High grass and weeds above 8 inches tall throughout the property including the rear parking area. Must be cut.	IPMC12-302.4 High grass / weeds	05/25/2022	\$ 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
05/25/2022	19-00800-106	V2200567	\$ 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.

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

22-09 BD

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

22-09 BE

04/25/22

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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. Facciolo

Code Enforcement Officer
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

NUISANCES

ARTICLE I

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

EXHIBIT

tabbles

22-69 BF**§ 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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC P O BOX 1221 HOCKESSIN, DE 19707	CITATION # V2200568 OFFICER N. Facciolo VIOLATION DATE 04/25/22 PROPERTY ADDRESS 1330 MAPLE AVE ABATEMENT DATE 04/30/22
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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
Wooden fence in the rear yard is in a state of disrepair. Must be repaired or replaced.	IPMC12-302.7 Accessory structure	05/25/2022	\$ 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
05/25/2022	19-00800-106	V2200568	\$ 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.

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

22-09 BI

04/25/22

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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. Facciolo

Code Enforcement Officer
cc: file

A Council - Manager Municipality
Located on the Net at townofelsmere.com

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

tabbles

22-69 BK



EXHIBIT
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EXHIBIT

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SECLICKFIX ID
11136413

PRIORITY
Normal

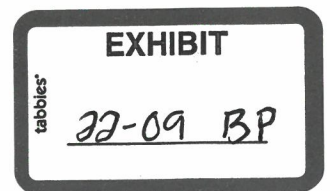
REQUEST TYPE
High Grass & Weeds

ADDRESS
1330 Maple Ave Wilmington, DE, 19805, USA

ASSIGNEE
Nicole Facciolo

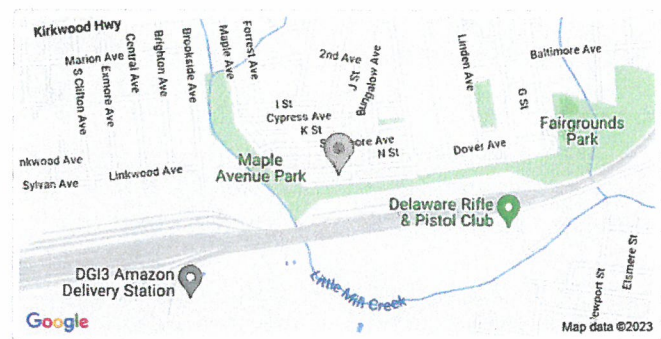
SLA EXPIRES
September 24, 2021 15:44
6 days late

REPORTED
September 21, 2021 15:44



SECONDARY QUESTIONS

LOCATION



SUMMARY & DESCRIPTION

High Grass & Weeds

High grass and weeds throughout the property

Reported by: Nicole Facciolo 09/21/2021 - 03:44PM

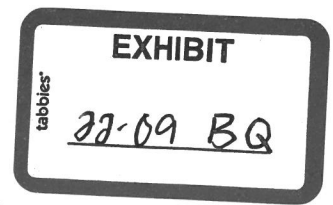
MEDIA



TIMESTAMP INTERNAL COMMENT

COMMENTER

September 21, 2021 15:44	Elsmere, DE assigned this issue to Nicole Facciolo	Elsmere, DE
September 21, 2021 15:44	Assigned to observing code officer.	Nicole Facciolo
September 21, 2021 15:44	Yes Due date changed from September 24, 2021 to September 28, 2021	Nicole Facciolo
September 21, 2021 15:45	While regularly patrolling this morning, I observed a violation for high grass and weeds above 8 inches tall throughout the property. A photo was obtained. Issued a citation and posted to the front door of the residence. A copy of the citation was mailed to the registered owner of the property via USPS.	Nicole Facciolo



September 24, 2021 15:36	Responded out to the property this morning to perform a follow-up on the citation issued on 9/21. I observed that the violation has not been corrected. Issued an invoice for the fine and posted to the front door of the residence. A copy of the invoice was mailed to the registered owner of the property via USPS as well.	
September 27, 2021 12:07	Responded back out to the property this morning to perform another follow-up. I observed that the violation still has not been corrected. I am requesting an abatement from the Public Works Department. This case will now be pending on their schedule.	Nicole Facciolo
September 27, 2021 12:07	Due date changed from September 28, 2021 to October 01, 2021	Nicole Facciolo
September 30, 2021 12:18	Received notification from Public Works stating that the abatement was completed by their department on Tuesday, 9/28. The property has now been brought back into compliance. No further action will be taken at this time.	Nicole Facciolo
September 30, 2021 12:18	This case has been closed. No further action will be taken at this time.	Nicole Facciolo

TOWN OF ELSMERE11 POPLAR AVENUE
ELSMERE, DE 19805

ATTN: VALARIE M. STRZEMPA

TEL: (302)998-2215 EXT: 110

FAX: (302)998-9920

EXHIBIT

tabbles

22-09 BR

INVOICE NO.

I2200958

INVOICE DATE: 09/28/21

DUE DATE: 10/28/21

CUSTOMER #: C-002329

EN PROPERTY HOLDINGS LLC

P O BOX 1221

HOCKESSIN, DE 19707

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	PRPMAN10	ABATEMENT/PROPERTY MAINT-P/W 1330 MAPLE AVE	133.880000	133.88
			TOTAL INVOICE	<u>133.88</u>
<p>If this invoice is not paid by the due date, the amount due will be charged to your property taxes as a <u>SPECIAL TAX LIEN!</u></p> <p>8-106</p>				

TOWN OF ELSMERE
11 POPLAR AVE
ELSMERE, DE 19805EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Invoice Id: I2200958

Customer Id: C-002329 PIN: 725748

Due Date: 10/28/21

Total Due: 133.88



tabbies
EXHIBIT
22-09 BS

TOWN OF ELSMERE ABATEMENT COST FOR 1330 MAPLE AVENUE

BILL TO:	INFORMATION CONCERNING THE WORK PERFORMED	
EN PROPERTY HOLDINGS LLC. P.O. BOX 1221 HOCKESSIN, DE 19707 C-002329	Location Abatement performed:	1330 MAPLE AVE. ELSMERE, DE 19805
	Services Performed By:	PUBLIC WORKS DEPARTMENT
	Date Services Performed:	9/29/2021

REASON THE WORK WAS PERFORMED

This property is in violation of the International Property Maintenance Code 2012 Edition Section 302.4 for high grass and weeds over 8 inches tall throughout the property. The property has failed to bring the property into compliance from the conditions noted in citation number V2200194.

TYPE OF WORK PERFORMED

NOTES: High grass and weeds throughout the property. Please cut and remove any debris uncovered while mowing.

The hourly costs for Town equipment are based upon the Federal Emergency Management Agency's "Schedule of Rates". All others are actual cost incurred.

22-09 BT

BREAKDOWN OF ACTUAL EXPENSES INCURRED BY THE TOWN

Personnel Costs:

Personnel	Hourly Rate	Hours	Total
Kenny Keech	\$ 15.74	1	\$ 15.74
Thomas Harrison	\$ 15.74	1	\$ 15.74
John Houben	\$ 19.11	1	\$ 19.11
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Total Personnel Cost			\$ 50.59

Cost of Town Equipment Used:

Description	Cost Per Hour	Hours	Total
F350	\$ 26.77	1.00	\$ 26.77
F350	\$ 26.77	1.00	\$ 26.77
trailer	\$ 11.25	1.00	\$ 11.25
zeroturn	\$ 4.00	1.00	\$ 4.00
push mower	\$ 3.00	1.00	\$ 3.00
leaf blower	\$ 1.50	1.00	\$ 1.50
weed wacker	\$ 5.00	1.00	\$ 5.00
weed wacker	\$ 5.00	1.00	\$ 5.00
Total Cost for Town Equipment			\$ 83.29

Professional Services Cost:

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Total Expenses to the Town of Elsmere \$ 133.88

TOWN OF ELSMERE

11 POPLAR AVENUE

ELSMERE, DE 19805

ATTN: SCOTT ALLEN

TEL: (302)998-2215 EXT: 104

FAX: (302)998-9920

EXHIBIT

tabbles

22-09 BU

INVOICE NO.

I2200939

INVOICE DATE: 09/24/21

DUE DATE: 10/24/21

CUSTOMER #: C-002329

EN PROPERTY HOLDINGS LLC

P O BOX 1221

HOCKESSIN, DE 19707

8-106

VIOLATION INFORMATION

VIOLATION ID: V2200194

LOCATION: 1330 MAPLE AVE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	CODE-CT2	CODE CITATION 1330 MAPLE AVENUE IPMC 2012 CHAPTER 302.4 - High grass and weeds above 8 inches tall throughout the property. Must be cut and maintained.	100.000000	100.00
			TOTAL INVOICE	100.00
If this invoice is not paid by the due date, the amount due will be charged to your property taxes as a <u>SPECIAL TAX LIEN!</u>				

TOWN OF ELSMERE
11 POPLAR AVE
ELSMERE, DE 19805

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Invoice Id: I2200939

Customer Id: C-002329 PIN: 725748

Due Date: 10/24/21

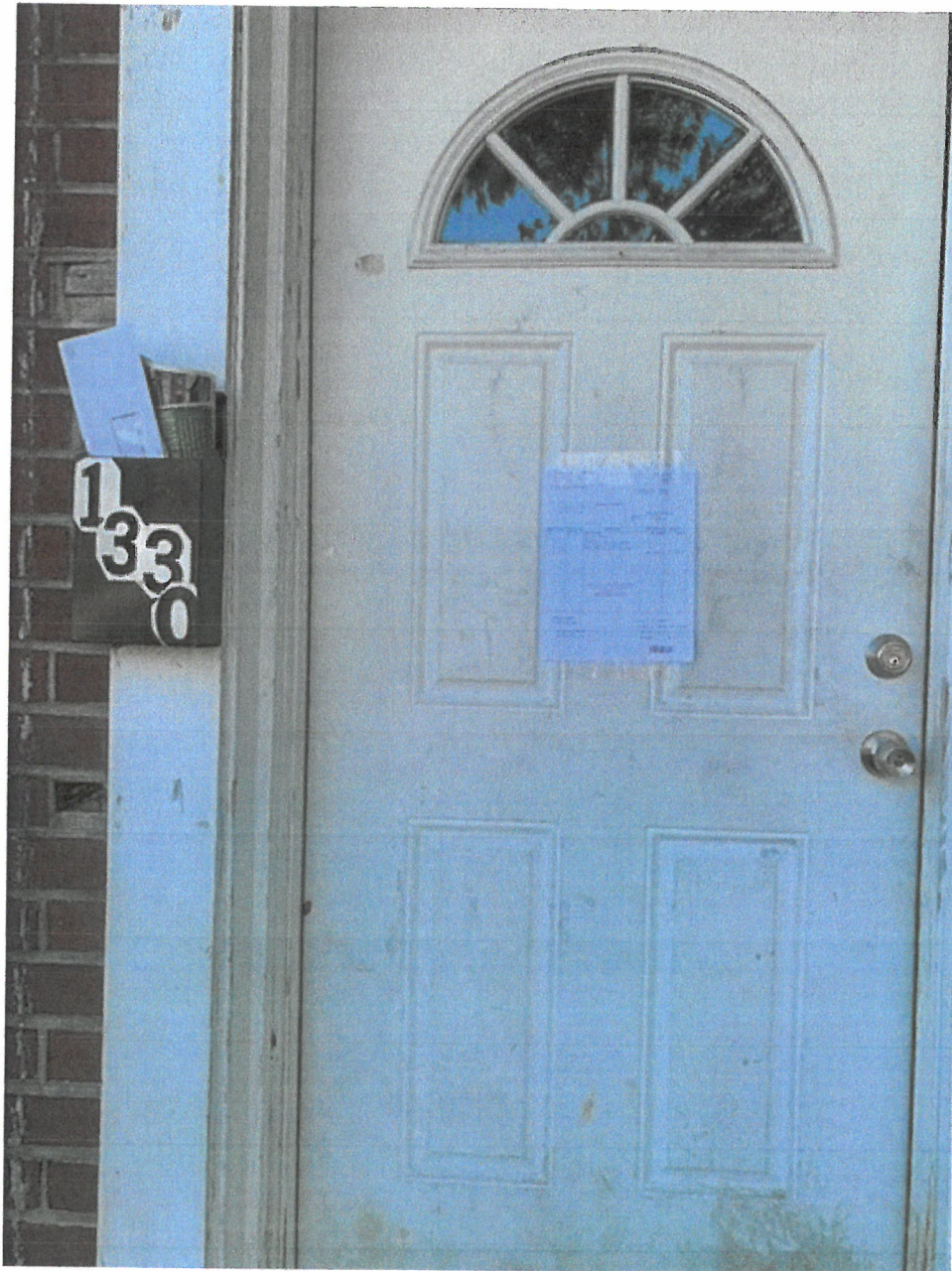
Total Due: 100.00



EXHIBIT

tabbles

22-09 BV





EXHIBIT

tabbles

22-09 BW

THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

*****CITATION*****

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

RESPONSIBLE PARTY EN PROPERTY HOLDINGS LLC P O BOX 1221 HOCKESSIN, DE 19707	CITATION # V2200194 OFFICER N. Nabb VIOLATION DATE 09/21/21 PROPERTY ADDRESS 1330 MAPLE AVE ABATEMENT DATE 09/26/21
---	--

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
High grass and weeds above 8 inches tall throughout the property. Must be cut and maintained.	IPMC12-302.4 High grass / weeds	10/21/2021	\$ 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
10/21/2021	19-00800-106	V2200194	\$ 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

EXHIBIT

tabbies

22-09 BX

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

22-09 BY

09/21/21

EN PROPERTY HOLDINGS LLC
P O BOX 1221
HOCKESSIN, DE 19707

Re.: Tax Parcel 19-00800-106 1330 MAPLE AVE

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

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
tabbies
22-09 CA



EXHIBIT

tabbles

22-09 CB



Parcel # 1900800106

Property Address: 1330 MAPLE AVE
WILMINGTON, DE 19805-
Subdivision: ELSMERE GARDENS
Owner: EN PROPERTY HOLDINGS LLC
PO BOX 1221
Owner Address:
HOCKESSIN, DE 19707
Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

EXHIBIT

tabbies

22-09 CC

Lot #: 9
Location:
Map Grid: 09403560
Block:
Census Tract: 124.00
Street Type: NEIGHBORHOOD
Water: PUBLIC
Microfilm #: UNREC

Property Class: RESIDENTIAL
Lot Size: 0.04
Lot Depth: 102.60
Lot Frontage: 16
Street Finish: SIDEWALK

District & Zoning Info**Districts**

- **FIRE/RESCUE - ELSMERE**
- **RED CLAY SCHOOL DIST-TRES**
- DE SEN 07-SPIROS MANTZAVINOS
- COUNCIL 1 - BRANDON T TOOLE
- DE REP 13-DESHANNA U NEAL
- NORTH OF C&D CANAL
- ADD REQ PER SEC 10.3.4.4 DSSR
- TRAFFIC ZONE T093 (YR2022)
- SEWER DISTRICT NORTHERN-ASMT
- PLANNING 8 - LOWER CHRISTINA
- ELSMERE GARDENS - Civic Organization - no contact information available

Zoning

- 19R2 - ONE/TWO FAMILY DWELLING

Deed History

Grantee(s)	Deed	Multi?	Sale Date	Sale Amount
ONEAL HARRY D & ETAL	G107 236	N	9/1/1979	\$28,000.00
ONEAL HARRY D & JOYCE A	2923 317	N	11/9/2000	\$1.00
EN PROPERTY HOLDINGS LLC	20140603 0022849	N	1/14/2014	\$35,000.00

Tax/Assessment Info**Assessment**

Land: 6500
Structure: 30300
Homesite: 0
Total: 36800
County Taxable: 36800
School Taxable: 36800

Tax Bills as of 1/11/2023 3:01:15 AM

Tax Year	County			School		
	Principal Due	Penalty Due	Amt Paid	Principal Due	Penalty Due	Amt Paid
2010A	\$0.00	\$0.00	\$135.05	\$0.00	\$0.00	\$731.64
2011A	\$0.00	\$0.00	\$168.01	\$0.00	\$0.00	\$882.60
2012A	\$0.00	\$0.00	\$153.15	\$0.00	\$0.00	\$793.53
2013A	\$0.00	\$0.00	\$137.10	\$0.00	\$0.00	\$758.52
2014A	\$0.00	\$0.00	\$149.08	\$0.00	\$0.00	\$835.59
2015A	\$0.00	\$0.00	\$133.36	\$0.00	\$0.00	\$837.93
2016A	\$0.00	\$0.00	\$125.49	\$0.00	\$0.00	\$858.28
2017A	\$0.00	\$0.00	\$126.15	\$0.00	\$0.00	\$923.42
2018A	\$0.00	\$0.00	\$135.09	\$0.00	\$0.00	\$905.64
2019A	\$0.00	\$0.00	\$132.59	\$0.00	\$0.00	\$959.46
2020A	\$0.00	\$0.00	\$116.53	\$0.00	\$0.00	\$912.27
2021A	\$0.00	\$0.00	\$114.45	\$0.00	\$0.00	\$908.04
2022A	\$0.00	\$0.00	\$142.46	\$0.00	\$0.00	\$909.69

Tax Payments as of 1/11/2023 3:01:15 AM

Date Paid	Amt Paid
2/4/2011	\$866.69
4/30/2014	\$2,892.91
10/15/2015	\$1,880.92
4/4/2016	\$1,880.92

10/30/2017
4/5/2018
8/28/2018
10/16/2019
1/9/2020
9/21/2020
9/24/2021
8/15/2022

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.

EXHIBIT

tabbles

27-09 CD

\$227.48
\$10.02
\$1,030.71
\$1,037.36
\$54.69
\$1,028.80
\$1,022.49
\$1,052.15

Sewer History as of 1/11/2023 3:01:28 AM

Tax Year	Principal Due	Penalty Due	Date Paid	Amount Paid
2005S1	\$0.00	\$0.00	6/21/2005	\$268.76
2006S1	\$0.00	\$0.00	5/11/2006	\$373.60
2007S1	\$0.00	\$0.00	2/22/2007	\$223.10
2008S1	\$0.00	\$0.00	2/27/2008	\$232.39
2009S1	\$0.00	\$0.00	3/11/2009	\$176.62
2010S1	\$0.00	\$0.00	3/25/2010	\$390.22
2011S1	\$0.00	\$0.00	12/3/2013	\$554.16
2012S1	\$0.00	\$0.00	4/30/2014	\$878.67
2013S1	\$0.00	\$0.00	4/30/2014	\$802.09
2014S1	\$0.00	\$0.00	4/30/2014	\$79.23
2015S1	\$0.00	\$0.00	6/2/2016	\$274.99
2016S1	\$0.00	\$0.00	6/2/2016	\$198.39
2017S1	\$0.00	\$0.00	2/14/2017	\$252.57
2018S1	\$0.00	\$0.00	2/26/2018	\$229.61
2019S1	\$0.00	\$0.00	2/19/2019	\$231.45
2020S1	\$0.00	\$0.00	3/13/2020	\$163.56
2021S1	\$0.00	\$0.00	2/18/2021	\$321.46
2022S1	\$0.00	\$0.00	2/17/2022	\$320.74

Balance Due: \$0.00

These amounts do not reflect statutory penalty, which was imposed on the first of the month. To obtain the exact amount necessary to pay the account in full, please call New Castle County's Treasury Division at (302) 395-5340.

Residence Characteristics

Residence 0

Building Design: ROW INSD	Residence Class: SFD PLATTED LOT
Grade: AVERAGE	Condition: AVERAGE
Year Built: 1959	# Stories: 2
Total Area (sq. ft.): 1025	Main Floor Area: 512
# Rooms: 6	# Bedrooms: 3
# 1/2 Baths: 0	# Full Baths: 1
# Fam. Rooms: 0	# Fixtures: 5
Roof Type: FLAT	Roof Material: COMPWOOD
Exterior Wall: BRICK	Interior Wall Finish: DRYWALL
Floor Finish: WOOD	Foundation: SLAB
Garage Capacity: 0	Basement %:
Basement % Finished:	Basement Finish Type:
Attic % Finished:	
Unfinished %:	Unfinished Area: 0
Heat Type: HOT AIR	Air Conditioning: AIR CONDITIONING
Remodel Year: 0	

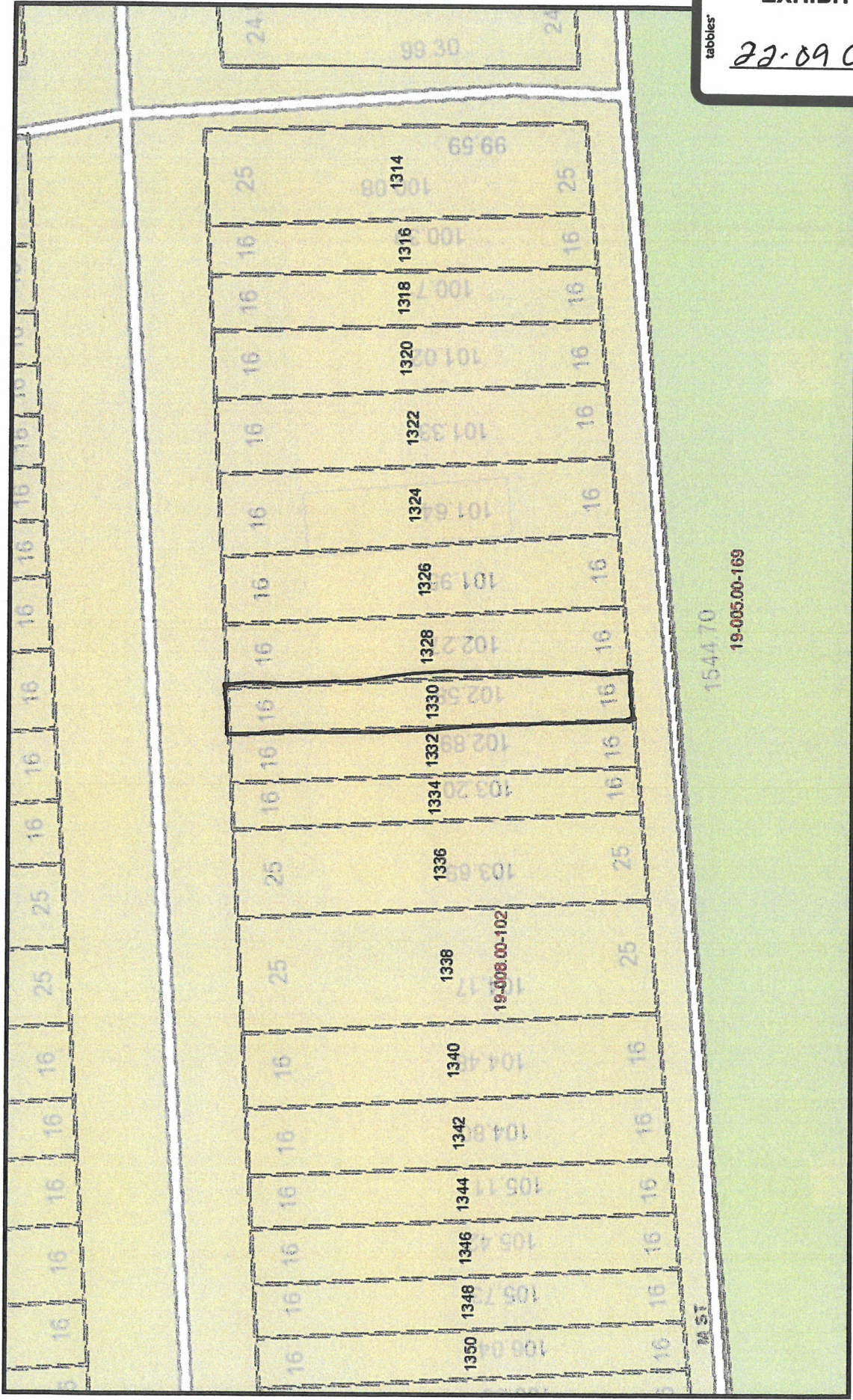
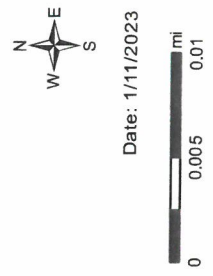


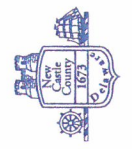
EXHIBIT
22-09 CE
tabbles



Date: 1/11/2023

Parcel Map

Author:



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