

**NEW CASTLE  
COUNTY**

**PROPERTY  
MAINTENANCE  
CODE**

**CHAPTER 7**

**Introduced By: Patty W. Powell  
Date of Introduction: May 11, 2004**

**SUBSTITUTE NO. 4 TO ORDINANCE NO. 04-057  
AS AMENDED BY FLOOR AMENDMENT NO.1**

**TO CREATE CHAPTER 7 (“PROPERTY MAINTENCE CODE”)  
OF THE NEW CASTLE COUNTY CODE**

**WHEREAS**, New Castle County is charged with the responsibility to protect the health, safety and welfare of the citizens of New Castle County;

**WHEREAS**, New Castle County intends to protect health, safety and welfare of the citizens of New Castle County through the amendment, adoption and enforcement of regulations pertaining to property maintenance;

**WHEREAS**, property maintenance provisions are currently contained in Chapter 6 (“Buildings and Property Regulations”), of the New Castle County Code, but sections of that Chapter, specifically, provisions pertaining to the New Castle County Building Code, were rewritten by Substitute No. 1 to Ordinance 01-090;

**WHEREAS**, Section 1 of Substitute No. 1 to Ordinance 01-090 provided that provisions applying to property maintenance shall remain in full force and effect until otherwise repealed, and it is, therefore, the intent of this ordinance to repeal those provisions in Chapter 6 that were not repealed by the adoption of Substitute No. 1 to Ordinance 01-090;

**WHEREAS**, by the adoption of this Ordinance, the New Castle County Executive and County Council intend to: (1) remove any reference to the Property Maintenance Code from Chapter 6 of the New Castle County Code; (2) Create a new Chapter 7 of the New Castle County Code to be known as the New Castle County Property Maintenance Code; (3) revise the property maintenance Code to be consistent with the 2003 International Property Maintenance Code; and, (4) strengthen the administrative and enforcement provisions of the property maintenance chapter of the New Castle County Code; and

**WHEREAS**, New Castle County finds that the provisions of this ordinance are rationally and reasonably related to legitimate government interests including, but not limited to, the protection and preservation of the public health, safety, prosperity, general welfare, and quality of life.

Chapter 6 was not repealed.

**NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY  
ORDAINS:**

**Section 1.** The *New Castle County Code* is amended by adding the material set forth in “Exhibit A” which is attached hereto and made part hereof as if fully set forth herein, all such matter to be considered as new matter shall be considered underline.

**Section 2. Adoption of the International Property Maintenance Code.** Certain documents on file in the office of the Clerk of County Council, being marked and designated as the *International Property Maintenance Code, first edition (2003)*, published by the International Code Council, Inc., is hereby adopted as the Property Maintenance Code of New Castle County, for the control of buildings, structures and premises as herein provided. All the sections, conditions, and terms of the *International Property Code*, first edition, (hereinafter “Code”) are hereby referred to, adopted and made a part of this Chapter as if fully set out herein, with the additions, insertions, deletions, and changes prescribed in this ordinance.

**Section 3. Inconsistent ordinances and resolutions repealed.** All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith are hereby repealed upon the effective date of this ordinance.

**Section 4. Continuation of existing ordinances and resolutions.** The sections appearing in this ordinance, so far as they are in substance the same as those ordinances and resolutions adopted and included in the *New Castle County Code*, shall be considered as continuations thereof and not as new enactments.

**Section 5. Continuation of existing institution, rights, and liabilities.** The revisions of prior ordinances, resolutions, rules and regulations, provided for in this ordinance, shall not affect any act done, or any cause of action accruing or accrued or established, or any suit or proceeding and or commenced in any civil action, nor any plea, defense, bar or matter existing before the times when such revisions shall take effect; but the proceedings in every such case shall conform with this ordinances to the extent applicable.

All the provisions of ordinances, resolutions, rules and regulations revised by this ordinance shall be deemed to have remained in force from the time when they began to take effect, so far as they may apply to any department, agency, office or trust or of any transaction or event of any limitation or any right or obligation or the construction of any contract already affected by such ordinances, resolutions, rules and regulations, notwithstanding the revisions of such provisions.

No offense committed and no penalty or forfeiture incurred, under any of the ordinances, resolutions, rules and regulations revised by this ordinance and before the time when such revisions shall take effect shall be affected by such revisions.

No such action or prosecution, pending on the effective date of the revisions provided in this ordinance, for any offense committed or for the recovery of any penalty or

forfeiture incurred under any of the ordinances, resolutions, rules and regulations revised herein shall be abated or affected by such revisions, except that the proceedings in such action or prosecution shall conform with this ordinance if applicable.

The provisions in this ordinance shall not be constructed to abolish or impair existing remedies New Castle County or its officers or agencies relating to the remediation of any dangerous, unsafe, or unsanitary condition.

**Section 7. Severability.** It is hereby declared to be the intention of the County Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance. If any provision of this ordinance is found to be unconstitutional or void, the applicable former ordinance provisions shall become effective and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

**Section 8. Other laws.** The provisions of the Chapter shall not be deemed to nullify any provisions of local, state, or federal law except as stated in Section 2 above.

**Section 9. Effective Date.** This ordinance shall become effective immediately upon its adoption by County Council and approved by the County Executive.

**SYNOPSIS:** This ordinance creates a new Chapter 7 of the New Castle County Code entitled Property Maintenance Code. This ordinance incorporates the 2003 International Property Maintenance Code will provide a unified and comprehensive set of regulations for property maintenance issues. This ordinance also provides enforcement provisions that are consistent with due process requirements and that will allow the County to protect the health, safety, and welfare of its residents.

**FISCAL NOTE:** This Ordinance will have no discernable fiscal impact.

**Chapter 7**  
**PROPERTY MAINTENANCE**

**Article 1. Standards For Property Maintenance**

Sec. 7.01.001 Adoption of the International Property Maintenance Code.

Sec. 7.01.002 Amendments to the International Property Maintenance Code.

Chapter 1. Administration

Chapter 2. Definitions

Chapter 3. General Requirements

Chapter 4. Light, Ventilation and Occupancy Limitations

Chapter 5. Plumbing Facilities and Fixture Requirements

Chapter 6. Mechanical and Electrical Requirements

Chapter 7. Fire Safety Requirements

Chapter 8. Referenced Standards

## **ARTICLE 1. STANDARDS FOR PROPERT MAINTENCE**

### **Sec. 7.01.001. Adoption of the International Property Maintenance Code.**

*The International Property Maintenance Code*, 2003 edition, published by the International Code Council, Inc. is hereby adopted as the *New Castle County Property Maintenance Code*, for the control of properties, buildings and structures as herein provided. All the sections, conditions, and terms of the *International Property Maintenance Code*, 2003 edition, are hereby referred to, adopted and made a part of this Chapter as if fully set out herein, with the additions, insertions, deletions, and any changes, if any prescribed in §7.01.002.

### **Sec. 7.01.002. Amendments to the International Property Maintenance Code.**

Certain sections and subsections of the *International Property Maintenance Code*, 2003 edition, adopted in §7.01.001, are hereby added, deleted, amended, changed and clarified as follows. Note: Although the *International Property Code*, 2003 edition, does not identify sections with a “PM” designation, such a designation is utilized to avoid any confusion as to what the Code the amendment relates.

# CHAPTER 1 ADMINISTRATION

## SECTION 101 GENERAL

**PM 101.1 Title.** These regulations shall be known as the *New Castle County Property Maintenance Code*, hereinafter referred to as “this Code”.

**PM 101.1.1.1, Jurisdiction.** This Code shall regulate all housing and property maintenance on any property in New Castle County except in the incorporated areas of Wilmington, Middletown, Newark, New Castle City, Elsmere, Townsend, Newport and Bellefonte where this Code shall apply only upon official request from the municipality.

**PM 101.2 Scope.** The provisions of this Code shall apply to all existing residential and nonresidential structures and all existing premises, excluding state right-of-way, and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibilities of owners, owners and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

**PM 101.3, Purpose.** This Code shall be liberally construed to promote and safeguard the health, safety and welfare of the public by establishing the minimum requirements and standards for all properties, building and structures within the jurisdiction of New Castle County Government.

**PM 101.4, Severability.** The provisions of this Code shall be severable. If any provision of the Code is found by a court of competent jurisdiction to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of the Code.

**PM 101.5, Conflict.** Where there is a conflict between a provision in this Chapter and another chapter of the *New Castle County Code*, the most restrictive provision shall apply.

**PM 101.6, No Liability created.** Nothing in this Code shall create any liability for loss or damage resulting from the failure of the County to perform any responsibility set forth in this Code or obligates the County to make any appropriation or expend any money not appropriated for any purpose set forth in this Code.

**PM 101.7, Effect upon suits, proceedings, rights, liabilities.** Nothing in this Code or in any of the codes hereby adopted shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any causes of action acquired or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost impaired, or affected by this Code.

**PM 101.8, Appendix.** An Appendix to this Chapter shall be maintained by the Department, and shall be amended from time to time as deemed necessary by the Department. Notice of any charge to the Appendix shall be published in the *Saturday News Journal* at least thirty (30) days before the change is effective. The Department of Law shall be required to approve all legal forms and documents that appear in the Appendix and shall be responsible for updating and making amendments thereto.

## SECTION 102 APPLICABILITY

**102.1 General.** The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

**102.2 Maintenance.** Equipment, systems, devices and safe-guards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required

under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of building, structures and premises.

**PM 102.3, *Application of other Codes***, Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of Chapter 6 of the *New Castle County Code*. Nothing in this Code shall be construed to cancel, modify or set aside any provisions of Chapter 40 of the *New Castle County Code*.

**PM 102.4, *Existing remedies***, The provisions of this Code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any dangerous, unsafe and unsanitary condition.

**102.5 Workmanship**. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

**102.6 Historic buildings**. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare. "Nothing contained in this Code shall be construed to override statutes, laws, ordinances, rules or regulations with respect to the architectural or design integrity of buildings which have been designated as historic structures or which have historical significance, provided that such structures are maintained in good condition and repair and are not a threat to the health, welfare, or safety of the occupants of the premises or the general public."

**PM 102.7 *Reference codes and standards***, The codes and standards referenced herein shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur among this Code, and the

referenced standards, the provisions of this code shall prevail over the provisions of the International Codes, and the provisions of the International Codes shall prevail over any referenced standards.

**102.8 Requirements not covered by code.**

Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

**PM 102.9, *Savings clause***. This Code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

**SECTION 103 IS DELETED IN ITS ENTIRETY**

**SECTION 104  
DUTIES AND POWERS OF THE  
CODE OFFICIAL**

**104. 1 General**. The code official shall enforce the provisions of this code.

**PM 104.1.1 *No conflicts of interest***, No County employee who has an official duty in connection with the administration and/or enforcement of this Code shall be financially interested in the furnishing of labor, materials or appliances for the construction, alteration, or maintenance of a building, or in making plans or specifications therefore, unless he or she is the owner of the building. No such employee shall engage in activity which is inconsistent with the public interest and his or her official duties.

**PM 104.2 *Rule-making authority***, The code Official shall have the authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this Code; to secure the intent thereof; and to designate requirements applicable because of local climate or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements, or of violating

acceptable engineering methods involving public safety.

**PM 104.3 Inspections,** The Code Official shall make all the required inspections, or shall accept inspection reports by an approved agency or individual (s). All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary. All costs incurred for said expert opinions may be assessed to the responsible party.

**PM 104.4 Right of entry,** The Code Official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures.

**104.5 Identification.** The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**104.6 Notices and orders.** The Code Official shall issue all necessary notices or orders to ensure compliance with this code.

**PM 104.7 Department records,** The Code Official shall retain all of the investigatory files pertaining to current investigations and/or court proceedings. The files and/or its contents shall be kept and made available in accordance with Delaware's Freedom of Information Act ("FOIA").

**104.8 Coordination of inspections.** Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official involved to coordinate their inspections and inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the Code Official having jurisdiction.

**PM 104.9 Liability,** The Code Official, member of the Board of License, Inspection and Review or employee charged with enforcement of this Chapter, who is subject to a civil and/or criminal action arising from the performance of his or her

duties shall have a right to representation and indemnification pursuant to § 2.03.200 ("Indemnification of County Officers and Employees") of Chapter 2 of the *New Castle County Code*.

## SECTION 105 APPROVAL

**105.1 Modification.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modification shall be recorded and entered in the department files.

**105.1.1 Fees.** A fee as set forth in the Appendix to this Chapter shall be charged for each request for code modifications

**105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

**105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or method, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**105.3.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

**105.3.2 Test reports.** Reports of tests shall be retained by the code official for the period required for retention of public records.

**105.4 Material and equipment reuse.** Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

## SECTION 106 VIOLATIONS

**PM 106.1 Violations; generally,** Any person who shall violate any provisions(s) of this Code or shall fail to comply with any of the requirements hereof, shall be subject to any of the enforcement mechanisms and penalties outlined in this Section.

**106.2 Notice of violation.** The code official shall serve a notice of violation or order in accordance with Section 107

### **PM 106.3 Enforcement.**

**PM 106.3.1 Administrative enforcement.** Any person violating the provisions of this Code may be subject to administrative proceedings instituted by the Code Enforcement Officer. Violations subject to administrative enforcement shall be commenced within three (3) years as provided in 10 Del. C. §8106.

**PM 106.3.1.1 Notice to owner or person responsible,** Whenever the Code Official determines that there has been a violation of the Code or has reasonable ground to believe that a violation has occurred, notice shall be given to the owner or persons responsible for the property. The person(s) noticed shall be responsible for correcting such violation(s).

**PM 106.3.1.1.1 Form,** The form of such notice prescribed in *Section PM 106.3.1*, shall be in accordance with *Section PM 107.2*

**PM 106.3.1.1.2, Method of service,** Notice required by *Section PM 106.3.1.1* shall be satisfied where a copy of the decision, or violation notice is: (a) delivered personally to the owner or person responsible for the property; or (b) mailed by regular United States mail and addressed to the owner or person responsible for the property at their last known address; or (c) posted in a conspicuous place on the property. Service of such notice in the foregoing manner upon an owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

**PM 106.3.1.1.3, Exceptions,** In no case shall the Code Official be required by *Section PM 106.3.1.1* to provide a violation notice to (a) any owner or person previously provided notice pursuant to *Section PM 106.3.1.1*, or under any former Code provision, where the same Code violation is alleged by the Code Official to exist, or (b) in the event that a Code violation exists, or is reasonably believed to exist, because work is being done in an unsafe or dangerous manner, jeopardizes the health, safety or welfare of the public, or is being done (or was done) in the absence of necessary permit(s), license(s) or registration(s).

**PM 106.3.1.2, Pre-deprivation show cause hearing,** If such violations are not remedied within the time specified, the Code Official shall schedule a Show Cause Hearing and provide the person an opportunity to defend his, her, or its conduct at a Show Cause Hearing prior to any penalty being imposed. After such Show Cause Hearing, the Code Official shall render a decision within twenty (20) days and send a written letter to the person informing them of his or her decision and detail the reasons for any adverse action taken. Any decision made by the

Code Official is appealable pursuant to *Section PM 106.3.1.5*. If the Code Official determines that the owner or person responsible for the property, building, structure, premises or equipment is in violation of this Code, the owner or person responsible shall be subject to a Show Cause Hearing Fee as defined in Chapter 6 (“Buildings and Structures”) of the *New Castle County Code*.

**PM 106.3.1.3, *Costs***, The owner of the property or person responsible for the building, structure, premises, or equipment shall be responsible for all costs associated with the enforcement of this Code and the investigation, removal, remediation, or abatement of Code violations including the costs of reports, studies, and opinions prepared by design professionals, the institution and maintenance of temporary safeguards, restoration of unsafe buildings, structures or equipment, demolition, and reasonable attorney fees associated with the above. The costs shall be liens on the property to the extent permitted by law.

**106.3.1.4, *Administrative penalty provisions***, The following administrative penalties may be imposed by the Code Official:

**PM 106.3.1.4.1, *Administrative fines***, Notwithstanding any other section of this Code, any person who is found to have violated any provision of this Code or directive of the Code Official, may be subject to the penalties specified in Section *PM.106.3.2.3* for each day that the violation continues in addition to any expense incurred by the County for the removal or abatement of the violation. Administrative fines imposed pursuant to this section shall be a lien on the parcel of real property that the expense is incurred upon or which is the subject of this violation. Upon certification of the lien by the Department of Land Use the amount of such lien shall be recorded and collected in the same manner as other County real estate taxes, and paid to New Castle County, when collected. *9 Del C., §2907*

**PM 106.3.1.4.2 *Institution of remedial action***, The County may initiate action to remedy the violation. Upon completion of such remedial work, the violator shall be provided the opportunity to reimburse the County within the time period specified, the County may: (i) call or collect on any bond or insurance established for this purpose; (ii) place a lien on any property within the County held by the person as permitted by State law; or (iii) institute a civil action for the recovery of such expenses, together with any penalty and/or interest, against the person, and the County shall be awarded reasonable attorney fees. An administrative fee for processing vendor requests and providing vendor services shall be charged for each instance such service is provided as set forth in the appendix to this Chapter. This Section shall not be construed to limit any other actions or remedies at law or equity.

**PM 106.3.1.4.3 *Voluntary assessment***. A New Castle County Code Enforcement Constable may issue a summons to a person the officer has reasonable grounds to believe has committed an offense against any ordinance pertaining to building, housing, sanitation, zoning or public health code of the County. Any summons issued by a New Castle County Code Enforcement Constable may provide that, in lieu of appearing in court, the offender may correct the offense(s) and remit a voluntary assessment of up to \$200 for each offense cited. The summons may provide that each day such violation continues shall constitute a separate offense *10 Del C., § 2902(f)*

**PM 106.3.1.5, *Administrative appeal***.

**PM 106.3.1.5.1, *Appeal to the Board of License, Inspection and Review***, Any person aggrieved by any administrative enforcement action taken pursuant to this Code, or any person who is in good faith claims that the true intent of this Code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of

construction is proposed shall have the right to appeal to the Board of License, Inspection and Review. The Board shall not have the authority to waive any requirement of this Code.

**PM.106.3.1.5.2 Time,** All appeals shall be filed with Department of Land Use within twenty (20) days of the date the written decision is issued by the Department. A public hearing will then be afforded to the appellant within forty-five (45) days of the filing of the appeal.

**PM.106.3.1.5.3 On record,** Appeals shall be heard based solely upon the materials (e.g. Plans, documents, reports, studies, drawings, and testimony) available to the official or body rendering the initial decision. Appeals shall not be used to consider new or additional information. Information submitted but not discussed in rendering a decision shall be considered part of the original record and may be considered on appeal. Testimony may be given based upon the materials submitted to the decision-maker.

**PM. 106.3.1.5.4, Written Decision,** The board of License, Inspection and Review shall make findings of fact and shall render a decision in writing based upon the record created at the public hearing within twenty (20) days.

**PM. 106.3.1.5.5, Actions that can be taken,** The Board of License, Inspection and Review may affirm, modify, reverse, vacate, or revoke the action appealed, provided that such action shall be affirmed by the Board if the action was not arbitrary or capricious, or was not taken pursuant to law.

**PM. 106.3.1.5.6, Stay,** If a stay of the action being appealed is desired, a written request must be submitted in writing to the General Manager of the Department of Land Use. The stay will be granted unless the Code Official can demonstrate that the granting of the stay would jeopardize the health, safety or welfare of the public.

**PM. 106.3.1.5.7, Fee,** The fee for filing of an appeal under this Section is set forth in the appendix to this Chapter.

**PM. 106.3.1.5.8, Writ of Certiorari,** An aggrieved party may appeal the decision of the Board of License, Inspection and Review by filing a petition for a *writ of certiorari* in the Delaware Superior Court.

**PM 106.3.2, Criminal Enforcement,** Any person violating the provisions of this Code may be subject to a criminal proceeding instituted by the Code Official or the County Attorney, or his or her designee. It is unnecessary to prove the defendant's state of mind with regard to offenses which constitute violations as the legislative purpose is to impose strict liability for such offenses.

**PM. 106.3.2.1, Dismissal of Charges,** Any person subject to criminal prosecution under this Code may avoid the same upon presenting sufficient evidence to establish that the alleged violation has been remedied. At the discretion of the County Attorney, or his or her designee, and if sufficient evidence is presented prior to trial, the County may enter a *nolle prosequi* with or without prejudice.

**PM. 106.3.2.2, Criminal proceedings,** Justices of the Peace shall have jurisdiction throughout the State to hear, try and finally determine any violation or violations of any ordinance. Only upon conviction shall the defendant have the right to appeal to the Court of Common Pleas. 11 *Del. C. § 5917.*

**PM. 106.3.2.3, Penalties,** Violations of this chapter shall be deemed to be misdemeanor offenses. The sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court fees appropriate: (a) For the first conviction, the penalty shall be a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1000.00). (b) for the second conviction for the same offense, the penalty shall be a fine of not less than five hundred (\$500.00), nor

more than two thousand five hundred dollars (\$2,500.00). (c) For all subsequent convictions of the same offense, the penalty shall be a fine of no less than one thousand dollars (\$1,000.00) nor no more than five thousand dollars (\$5,000.00). 11 *Del C.* §5917(a). The unpaid fine amounts may be considered a tax lien and collected in the same manner as other County real estate taxes. "Fines" as used in this Section shall also include any civil judgment awarded to the County thereof entered pursuant to §4101 pf Title 11. 25 *Del C.* §2901, 9 *Del C.* §2907 (b).

**PM. 106.3.2.4, *Continuing violations***, Each day any violation of this Code shall continue shall constitute a continuing violation for which a separate conviction may be obtained and a separate penalty for each day shall be imposed, and shall be considered a single conviction for the purposes of *Section PM 106.3.2.3*.

**PM. 106.3.3, *Civil enforcement***, Any person violating the provisions of this Code may be subject to a civil proceeding instituted by the County Attorney or his or her designee. The County may apply to the Court of Chancery for injunctive relief against the person, to prevent, restrain, correct, abate, remove, or enjoin any violation of the provisions of this Code.

**PM. 106.4, *Abatement of violation***, The imposition of the penalties and remedies herein prescribed shall not preclude the Code Official or his or her designees from instituting the appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of a building, structure or premises when such person fails to correct the violation after due notice, either actual or constructive, has been given to the person responsible, and where such person has had the opportunity to be heard by an administrative tribunal or court of competent jurisdiction on the issue of the violation .

**PM.106.4.1, *Reimbursement***, Upon completion of any action taken by the County to correct or abate a violation, the violator shall be provided the opportunity to reimburse the County for any costs incurred. An administrative fee for processing vendor requests and providing vendor services shall be

charged for each instance such service is provided as set forth in the Appendix to this Chapter.

**PM. 106.4.2, *Remedies***, Upon failure to reimburse the County within the time period specified, the County may: (i) call or collect on any bond or insurance established for this purpose; (ii) place a lien upon the parcel of real property which is the subject of the abatement or after a Notice of Lien is filed on any property within the County which is held by the responsible person. Upon certification of the lien by the Department of Land Use, the amount of such lien shall be recorded and collected in the same manner as other County real estate taxes and paid to New Castle County when collected. There shall be a right to appeal the abatement cost to the Board of License Inspection and Review. 9 *Del C.* §1315; or (iii) institute a civil action for the recovery of such expense, together and with any penalty and/or interest, against the person, and the County shall be awarded reasonable attorney fees. This Section shall not be construed to limit any other actions or remedies at law or equity.

**PM 106.5, *Extensions***. Application for an extension of the time frame to correct the violations addressed in the violation notice made be made in writing to the Code Official. The Code Official is authorized to grant, in writing, one or more extensions of time. The applicant must demonstrate justifiable cause and explain all pertinent surrounding circumstances including reasons for the delay, plans for completion, and what actions the applicant has taken to correct the problem. The Code Official may set conditions regarding the time frame to rectify any violations as well as any other conditions such as, but not limited to, those prescribed by a court of law or the Board of License, Inspection and Review. A fee as set forth in the Appendix to this Chapter shall be charged for each extension.

## SECTION PM 107 NOTICES AND ORDERS

**PM. 107.1, *Notice to owner or person responsible***. Whenever the code Official determines that there has been a violation of this Code, or has reasonable grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in *Section PM 107.2* and *Section PM 107.3* to the owner or person responsible for the violation as specified in this Code. Notices for condemnation procedures shall also comply with *Section PM 108.3*

**PM. 107.2, Form,** Such notice prescribed in *Section PM 107.1* shall be in accordance with all of the following: (a) be in writing; (b) include a description of the real estate sufficient for identification; (c) include a statement of the violation or violations and why the notice is being issued; and include a directive indicating the time to make the repairs and improvements required to bring the premises into compliance with the provisions of this Code.

**PM. 107.3.1, Method of service.** Such notice shall be deemed to be properly served if a copy thereof is (a) delivered personally to the owner or person responsible for the property; of (b) sent by certified or first-class mail addressed to the last known address; or (c) posting a copy of the notice in a conspicuous place in or about the structure affected by such notice.

**PM. 107.3.1, Method of service exception,** In no case shall the Code Official be required by this Section to provide a violation notice within a twelve (12) month period to any owner or person responsible previously provided notice pursuant to this Section or under any former Code provision where the same Code violation is alleged by the Code Official to exist.

## **PM. 108** **UNSAFE STRUCTURES, EQUIPMENT, UNFIT STRUCTURES AND UNLAWFUL STRUCTURES**

**PM. 108.1, General,** Any property owner or person responsible who maintains their property or equipment in an unsafe, unlawful or unfit manner shall be subject to the provisions of this Section.

**PM. 108.1.1, Unsafe Structures,** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. All unsafe structures shall be taken down and removed or made safe and secure as deemed necessary by the Code Official and as provided for in this Code.

**PM. 108.1.2, Unsafe equipment,** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway,

electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure. All equipment deemed unsafe by the Code Official shall not be operated after the date stated in the notice of violation unless the required repairs or changes have been made and the equipment has been approved.

**PM. 108.1.3, Unfit Structure,** A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public. All unfit structures shall be made fit and safe as deemed necessary by the Code Official and as provided for in this Code.

**PM. 108.1.4, Unlawful structure,** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law. All unlawful structures shall be made lawful.

**PM. 108.3, Notice,** When a structure or equipment is found by the Code Official to be unsafe, unfit, unlawful, or condemned, notice shall be posted in a conspicuous place in or about the structure, premises or equipment affected by such notice, and served on the owner or the person responsible in accordance with *Section PM 107.3*. If notice pertains to equipment, it shall also be placed on the equipment. All notices shall be in the form prescribed by *Section PM 107.2*.

**PM. 108.4, Placarding,** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises, structure or on defective equipment a placard bearing the word (Condemned) and a statement of the penalties provided for occupying the premise, structure, operating the equipment or removing the placard. If the structure, equipment or premises fall under any of the provisions of *Section PM 109.1*, then the Code Official shall immediately placard the structure, equipment or premises.

**PM. 108.5, *Prohibited occupancy*,** Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this Code. No structure or a premise which has been declared as unsafe, unlawful, or unfit shall be occupied until the defects have been eliminated, written approval of the Code Official is obtained, and the placard is removed by the Code Official.

**PM. 108.6, *Abatement*,** In addition to any other remedy, upon failure of the owner or person responsible to comply with the notice of violation within the time given, the Code Official is authorized to eliminate any unsafe or unfit structure in accordance with *Section PM 110*, through any available public agency or by contract or arrangement with private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall constitute a lien upon such real estate and may be collected by any other legal resource.

## SECTION 109 EMERGENCY MEASURES

**109.1 *Imminent danger*.** When, in the opinion of the code official, a building, structure, premises or equipment is determined to be unsafe, unfit or unlawful, or there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**PM. 109.2 *Temporary safeguards*,** Notwithstanding other provisions of this code, whenever, in the opinion of

the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedures herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**PM. 109.4 *Emergency repairs*,** For the purposes of this Section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any legal recourse.

**PM. 109.5 *Cost of emergency repairs*,** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction may institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

## SECTION 110 DEMOLITION

**110.1 *General*.** The code official shall order the owner of a premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

**PM. 110.2 *Notices and orders*.** All notices and orders shall comply with Section 107.

**PM. 110.3, *Failure to comply*,** If the owner or person responsible for a premises fails to comply with a demolition order with the prescribed, the Code Official may cause the structure to be demolished or removed, either through an available public agency or by contract or arrangement with private persons, and the costs of such demolition and removal shall be charged against the real estate upon which the structure is located, shall be a lien upon such real estate and may be collected by any legal recourse.

## **PM 111. VACANT STRUCTURES AND PREMISES**

**PM 111.1, *General***, All structures and surrounding premises shall be maintained in a safe, secure and sanitary condition as provided in the Code generally, and in this Section specifically, so as not to endanger public health, safety, or welfare. This maintenance shall include, but not be limited to the following:

**PM. 111.1.1, *Replacing any broken windows***;

**PM. 111.1.2, *Replacing deteriorated roofing or siding***;

**PM. 111.1.3, *Trimming shrubbery and grass***;

**PM. 111.1.4, *Repairing or removing any accessory building and equipment***, the condition of which is less than would be expected if the property were in active use;

**PM. 111.1.5, *Providing reasonable security measures*** to prohibit the unauthorized or illegal use of the premises or any building or equipment;

**PM 111.1.6, *removing or correcting*** any condition detrimental to the safety of the general public;

**PM. 111.1.7, *Maintaining all exterior*** surfaces including wood composition, cinderblock, or metal, in a weatherproof condition and surface coated to match the structure's exterior façade; and

**PM. 111.1.8, *Maintaining every floor***, interior wall and ceiling in a substantially rodent proof, sound condition, in good repair and capable or safely supporting imposed loads.

**PM. 111.1.9, *Exception***: When the government assumes responsibility for maintaining any structure or property, the Code Official may employ reasonable alternative methods, in its discretion, based on factors including, but not limited to, cost.

**PM. 111.2, *Compliance***, The owner or person responsible for any structure shall take corrective action to conform the structure and surrounding premises to the standards of this Section. If any structure is also considered unsafe within the meaning of *Section PM 108.1.1*, the owner shall eliminate the unsafe condition or demolish the structure. Where

immediate compliance is not feasible, the owner or person responsible shall notify the Code Official in writing of the steps taken to correct the conditions, together with and estimate of time required to fully comply with the provision of this Section. The corrective action shall be approved by the Code Official. If the owner proposes demolition as a corrective action, the demolition plan must comply with all applicable New Castle County Codes and/or regulations, and shall provide for removal of cement foundations, structures, or debris remaining after demolition has been completed.

**PM. 111.3, *Abatement***, In addition to any other remedy, upon failure of the owner or person responsible to comply with the provisions of the notice of violation within the time given, the Code Official is authorized to correct the conditions specified in the notice of violation, or demolish the structure in accordance with applicable Code provisions concerning demolition, through any available public agency or by contract or arrangement with private persons and the cost thereof may be charged against the real estate upon which the premises is located and shall be a lien upon such real estate and may be collected by any legal recourse.

## CHAPTER 2

### DEFINITIONS

#### SECTION PM. 201. GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings shown in this chapter.

**201.2 Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**PM. 201.3, Terms defined in other codes,** Where terms are not defined in this Code and are defined in the *International Building Code, International Fire Code, Chapter 40 of the New Castle County Code, International Plumbing Code, International Mechanical Code, International Existing Building Code* or other *ICC Electrical Code*, such terms shall have the meanings ascribed to them as in those Codes.

**201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

**PM 201.5 Parts,** Whenever the words: "Structure," "dwelling unit," "dwelling," "Premises," "building," "rooming house," "rooming unit," "housekeeping unit," or "story" are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof".

**ACCESSORY STRUCTURE.** A building or structure detached from a principal building located on the same lot, and which is customarily incidental and subordinate to the principal use or building.

**ADMINISTRATIVE TRIBUNAL.** a Show Cause Hearing before the Code Official for New Castle County.

**APPROVED.** Approved by the code official.

**BASEMENT.** A room containing plumbing fixtures including a bathtub or shower.

**BATHROOM.** A room containing plumbing fixtures including a tub or shower

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes.

**Boat.** Any sailing vessel that is designed or intended to operate on any body of water and can be propelled by such motive power as oars, paddles, wind or engine.

**Building Code Official,** The Code Official as defined herein.

**Clean Water,** Storm water, groundwater, roof run-off, yard drainage, yard fountain, hot tub or pool discharge, pond overflow or any substance other than sanitary sewage.

**Code Official,** The Department of Land Use employee designated by the General Manager of the Department of

Land Use who has the authority to administer and enforce this Chapter, or his or her duly authorized representative.

**Condemn,** To adjudge a structure or equipment to be unsafe, or when a structure is found unfit for human occupancy, or unlawful.

**Commercial business,** Any enterprise other than an agricultural enterprise or industrial business and may include but is not limited to wholesale, retail or other mercantile activities, office buildings, hotel or motel structures, shopping centers and department stores. The term "commercial business" also includes activities related to tourism and recreational facilities.

**County,** New Castle County, Delaware.

**Debris,** The scattered remains of something broken or destroyed.

**Demolish or demolition,** The razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. Demolition includes the removal or destruction of the façade or surface, or the alteration to such an extent that repair is not feasible or is so costly so as to be prohibitive, rendering the property unfit for use. Demolition shall also include demolition by neglect defined in Chapter 40 of the *New Castle County Code*.

**Department of Land Use,** The New Castle County Department of Land Use.

**Department of Special Services,** The New Castle County Department of Special Services.

**Developed parcel,** Any improved parcel of land that has one or more residential, office, commercial or industrial structures located thereon.

**Dumpster.** Any container or bin capable of storing, transporting, receiving, hauling, or emptying over 150 gallons of garbage, trash, refuse, waste, or materials, including but not limited to, commercially available roll-off units.

***Dwelling or Dwelling unit,*** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation excluding lodging facilities.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

**EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**EXTERMINATION.** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

***Family,*** Any number of individuals legally related through blood, marriage, adoption, or guardianship including individuals placed for foster care by an authorized agency, or up to four (4) unrelated individuals living and cooking together and functioning as a single housekeeping unit using certain room and housekeeping facilities in common.

**GARBAGE.** All kitchen and table food waste, animal or vegetable waste that is attendant with or results from the storage, preparation, cooking or handling of food materials.

**GRASS.** Any of various plants having narrow leaves, hollow jointed stems, and spikes or clusters of membranous flowers borne in smaller spikelets

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or premise of insects, rats, vermin or other pests.

**INOPERABLE MOTOR VEHICLE.** A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**LABELED.** Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

**LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

***License,*** Any license, certificate, or permit required by statute, ordinance, or regulation to be obtained from any County department or board as a prerequisite to engaging in any activity.

***New Castle County Register of Historic and Architectural Heritage,*** includes any building that is listed on the National Register of Historic Places, or meets the criteria to be listed on the National Register of Historic Places, satisfies the criteria for designation as a historic resource in Chapter 40, Article 15 of the *New Castle County Code*, or identified in the New Castle County Historic Sites working list contained in appendix of Chapter 40 of the *New Castle County Code*.

**NOXIOUS WEED.,** Any plants species designated as noxious weeds by the State of Delaware, including but not limited to, Johnsongrass (*Sorghum Halepense*), Canadian Thistle (*Cirsium arvense*), Burcucumber (*Sicyos angulutus*) and Giant Ragweed (*Amrosia trifida*)

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR.** A person who has charge, care or control of a structure or premises which is let or offered for occupancy

**Oversized vehicle,** Any vehicle or off-highway vehicle (excluding recreational vehicles and boats) the length of which is greater than two hundred forty (240) inches or the width of which is over eighty-four (84) inches or the height of which is over eighty-four (84) inches or the weight of which exceeds weight thousand (8,000) pounds.

**Owner,** Any person, agent, operator, firm corporation or artificial entity having a legal or equitable interest in a property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court of law.

**Parcel,** A lot or piece of land separately identified by a tax assessment parcel number issued by the County.

**Person,** An individual, corporation, company, firm, partnership or any other group acting as a unit, including, but not limited to, builder(s), developer(s), owner(s) or contractor(s)

**Person responsible,** an owner or any other person(s) who have control over the property or are responsible for the violation.

**Premises,** A lot, plot, parcel of land or easement, including any structures thereon.

**PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**Recreational Vehicle,** A vehicle designed for or used as temporary living quarters for recreational, camping, vacation or travel use, including but not limited to, house trailers, travel trailers, motor homes, self-propelled campers, or any other motor vehicle with permanent camper components. Living quarters shall include sleeping, cooking and lavatory facilities.

**Residential district,** Any property or group of properties designated by a residential zoning classification on the official New Castle County zoning maps.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one-or-two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to

be occupied for sleeping or living, but not for cooking purposes.

**Rubbish,** Combustible and noncombustible waste materials and trash and debris, except garbage; the term shall include, but is not limited to the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**Structure,** That which is built or constructed or a portion thereof, including, but not limited to, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, swimming pools, towers, steps, walkways, tents or anything erected and framed to a structure or structural parts fastened, anchored or resting on a permanent foundation or on the ground.

**Suitable screening,** A suitable screening shall consist of evergreen trees or shrubs, planted between the vehicle and the property line at a minimum of four (4) feet in height (and permitted to grow to a minimum eight (8) feet in height) and planted in such fashion that view is obstructed from adjoining areas.

**TENANT.** A person, corporation, partnership or group, whether or not legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**Undeveloped parcel,** any unimproved or partially improved parcel which has no residential, office, commercial, or manufacturing/industrial buildings located thereon.

**Vacant Premises,** Any premises intended for residential or commercial use which is not currently occupied or in use.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WEED.,** All grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

**Workmanlike,** Executed in a reasonably skilled manner; e.g. generally plumb, level, square, in line, undamaged and without marring adjacent work.

**Yard,** An open space on the same lot with a structure extending along the entire length of a street, or rear or interior lot line.

## CHAPTER 3

### GENERAL REQUIREMENTS

#### SECTION 301 GENERAL

**PM 301.1, *Scope*,** The provisions of this Chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures equipment and exterior property. This Chapter is not intended to supersede any requirements of any other statute, law, ordinance, rule or regulation with respect to historic structure or premises.

**PM 301.2, *Responsibility*,** The owner, occupier or person responsible for the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping the premises which they occupy and control in a clean, sanitary and safe condition.

#### SECTION 302 EXTERIOR PROPERTY AREAS

**302.1 Sanitation.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupants occupies or controls in a clean and sanitary condition.

**302.3 Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar area shall be kept in a proper state of repair, and maintained free from hazardous conditions.

#### **PM 302. 4, *Prohibited growth of weeds and grass.***

**PM 302.4.1, *Weeds and grass*** on undeveloped parcels adjacent to developed parcels shall be no greater than eight (8) inches high within ten (10) feet of any property line or more than twenty four (24) inches high within twenty (20) feet of any property line; provided however, with respect to undeveloped parcels that are shown on a recorded subdivision plan, weeds and grass shall be no more that eight (8) inches high within twenty (20) feet of any property line.

**PM 302.4.2, *Weeds and grass*** on developed parcels shall be no more than eight (8) inches high; provided, however, with respect to a parcel of land that is larger that one (1) acre and has a building lot coverage of less than five (5) percent, weeds and grass shall be no

more that eight (8) inches high within twenty (20) feet of any property line.

**PM. 302.4.3, *Exception*,** Weeds do not include: (a) ornamental shrubs and trees, or (b) a wildflower meadow maintained and located no less that ten (10) feet from any property line.

**PM 302.4.4 *Application of section to multiple adjacent undeveloped parcels*,** If an owner holds title to more than one (1) parcel and such parcels are adjacent to each other, sharing a common property line, such parcels may be considered as one parcel for purposes of the application of this Section.

**PM 302.4.5 *Annual mowing required.*** Notwithstanding any other subsection of this Section, an owner or possessor of a parcel shall be required to mow such parcel at least once a year, on or before September 30<sup>th</sup>, if such parcel contains a population of environmentally invasive plants, identified in Appendix III of chapter 40 of the *New Castle County Code*, significant enough in volume, number or size to cause harm to neighboring properties.

**PM 302.4.6, *Application to agricultural parcels*,** this Section shall not apply to any parcel or portion thereof on which agricultural crops are being grown.

**PM. 302.4.7, *Natural Resource Area Plan*,** This Section shall not apply to any parcel or portion thereof to the extent that it conflicts with a County or DNREC approved plan, including, but not limited to, a landscape plan, record plan, reforestation plan or natural resources area or management plan.

**PM 302.4.8 *Ornamental shrubs*,** and trees shall be maintained in good order and condition.

**PM 302.4.9 *Noxious weeds*,** shall not be allowed to exceed twenty-four (24) inches in height or produce seed. Except as otherwise recommended by the Delaware Department of Agriculture, noxious

weeds shall be controlled and/or eradicated through mowing and proper application of an herbicide approved by the Delaware Department of Agriculture between the rosette and bud stages (or boot stage for perennial grasses classified as weeds, but in no event later than May 30<sup>th</sup> of each year. Additional treatments shall be required later in the year as needed to control and/or eradicate the noxious weeds.

**PM 302.4.10 *Application to wooded areas***, The provisions on high weeds and grass shall not apply to wooded areas including, but not limited to, young and mature forest and critical natural areas.

**302.5 Rodent harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health, After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**PM 302.7 *Accessory Structure***, All accessory structures, shall be maintained structurally sound and in good repair.

**PM 302.8 *Vehicles and parking***, The parking and storage of vehicles are subject to the provisions of this section.

**PM 302.8.1 *Definition of specific vehicles***, When a definition for a particular vehicle is not provided by this Code, the definitions provided in Chapter 1 of Title 21 (Motor Vehicles) of the Delaware Code shall be used.

**PM 302.8.2 *Registered owner responsible for vehicle or off-highway vehicle***. A rebuttable presumption is hereby created that the person in whose name such vehicle or off-highway vehicle is registered as the owner, shall be prima facie responsible for any violation of this section. A violation notice or summons may be attached to an untended vehicle or off-highway vehicle found in violation of this section.

**PM 302.8.3, *Inoperable or unregistered vehicles***, In any zoning district, it shall be unlawful to park, store, or permit to be parked or stored, other than in a fully enclosed permanent building, any vehicle that is inoperable or incapable of being legally operated on any public roadway. A rebuttable presumption is hereby created that any vehicle that does not visually display a valid registration and inspection decal is inoperable until such time as a valid registration is

provided. Such vehicles parked or stored in the following situations shall be exempt from this Section:

**PM. 302.8.3.1, *On Farmland*** (as defined in 9 Del. C. § 8330), when such vehicles are used for agricultural purposes.

**PM 302.8.3.2 *On land*** appropriately zoned and used as a junk yard provided all such vehicles are fully enclosed by a solid fence or wall of sufficient height to screen such vehicles from public view.

**PM 302.8.3.3 *On land*** appropriately zoned and used for vehicle repair, parking is allowed for no more that one hundred twenty (120) days.

**PM 302.8.3.4, *Where such vehicles*** are being stored by police or other government agency.

**PM 302.8.3.5, *On land*** appropriately zoned and used for vehicular sales, rentals or storage.

**PM 302.8.3.6 *Towing Inoperable, Unregistered or Abandoned Vehicles from Private Property***. In any zoning district, New Castle County Code Enforcement Constables will have the joint authority with New Castle County Police Officers to provide notice provisions for towing inoperable, unregistered or abandoned vehicles from private property consistent with 21 Del C. §4402. This section shall apply to any vehicle that is either inoperable, dismantled, wrecked, or which displays expired registration plates which are at least thirty (30) days expired, or from which major components have been removed, or is in such a state of disrepair as to be incapable of being operated in the manner for which it is designed and is situated on private property appearing to have been abandoned.

**PM.302.8.3.6.1 *Notice Procedures for Towing Inoperable, Unregistered or Abandoned Vehicles from Private Property.***, If an abandoned vehicle is on private property with the consent of the owner or occupant thereof, or if an abandoned vehicle is owner by the owner or occupant of the private property where the vehicle is located, New Castle County Code Enforcement Constables may enter upon the property where such vehicle is located to

ascertain its ownership. The New Castle County Code Enforcement Constable shall notify the owner of the inoperable, unregistered, or abandoned vehicle by certified mail sent to the owner's last known address to remove such vehicle within seven (7) days from the date of the mailing. If the vehicle is not removed within seven (7) days or if the owner cannot be located for the purpose of sending the written notice, then the New Castle County Code Enforcement Constable may enter upon the property where the vehicle is located and conspicuously affix thereto a sticker or tag showing the time and date of its affixing, advising the owner that if the vehicle is not removed within twenty-four (24) hours from the time affixing of the sticker the vehicle will be towed. This subsection shall not apply to any vehicle on private property which is not visible from the street or road and is not otherwise a nuisance or a health or fire hazard.

**PM 302.8.3.6.2 Notice Specifications for Towing Inoperable, Unregistered or Abandoned Vehicles from Private Property.;** The notice required by Section PM.302.8.3.6.1 of this section shall state that, if such vehicle is not removed, it will be removed and stored at a storage area designated by New Castle County Police Department at the owner's expense, and thereafter will be subject to the disposal in accordance with law. Such notice shall also set forth verbatim the language in 21 Del C. §4414

**PM 302.8.4 Oversized vehicle parking.** Subject to the following exemptions, in any residential zoning district, it shall be unlawful to park, store, or permit to be parked or stored, other than in a fully enclosed permanent building, any vehicle or off-highway vehicle the length of which is greater than two hundred forty (240) inches or the width of which is over eight four (84) inches or the height of which is over eighty four (84) inches or the weight of which exceeds eight thousand (8,000) pounds. Such vehicles parked or stored in the following situations shall be exempt from this section:

**PM 302.8.4.1, When such a vehicle** is on property in conjunction with service or work on the property. The vehicle may only remain on the property for the time required

to complete such work or service. Examples include, but are not limited to, delivery trucks, utility vans, and moving trucks.

**PM 302.8.4.2, One oversized Vehicle** may be parked on a residential lot two (2) acres or larger when a 0.5 opacity buffer (as defined by Chapter 40 of the *New Castle County Code*) is established along the property line(s) adjacent to the vehicle.

**PM 302.8.4.3. Exception.** Up to two (2) oversized vehicles may be parked on a residential lot one (1) acre or larger, if the property has direct access to a collector or arterial street, the vehicle(s) are parked on a hardened surface constructed of material treated or covered with brick, block, pavers, stone, concrete, asphalt, or crushed decorative rock, and are vehicle are completely screened from view of other residentially zoned properties and all streets by a fence, dwelling and/or vegetative buffer.

**PM 302.8.5 Recreational vehicle parking.** Subject to the following exceptions, it shall be unlawful to park or store a recreational vehicle in any residential zoning district, in any street, roadway, or public right-of-way, or in any street yard including within a driveway. **STAYED BY ACT OF COUNTY COUNCIL 12/5/05 See \* after Section PM 302.15.4**

**PM 302.8.5.1, Temporary Permit,** A person visiting a lot owner or occupant may park his or her recreational vehicle on the roadway adjacent to such lot temporarily, not to exceed fourteen (14) days, provided a temporary permit from the New Castle County Police Department is obtained. The temporary permit shall designate the individual to whom the permit is issued, the recreational vehicle to be parked, and the expiration date of the permit. The New Castle County Police Department shall charge a fee to defray the cost of administering this section. The temporary permit must be displayed on the rearview mirror of the recreational vehicle during the entire period of time it is parked on the roadway.

**PM 302.8.5.2, Two (2) or more acres,** One (1) recreation vehicle may be parked on a residential lot two (2) acres or larger when 0.5 opacity buffer (as defined by Chapter 40 of the *New Castle County Code*) is established along all property line(s) adjacent to the vehicle. **STAYED BY ACT**

**OF COUNTY COUNCIL 12/5/05 See \*  
after Section PM 302.15.4**

**PM 302.8.5.3 Less than two (2) Acres,** On lots less than two (2) acres in size, one (1) recreational vehicle (or properly stored boat) may be parked in the rear yard or side yard (behind the front setback line) of a residential lot provided that (a) it is stored parallel to and adjacent to the house or a permanent accessory structure; and (b) a suitable evergreen screen is placed around all sides of the vehicle with the exception of the side used for ingress/egress. **STAYED BY ACT OF COUNTY COUNCIL 12/5/05 See \* after Section PM 302.15.4**

**PM 302.8.6, Parking of vehicles,** In any residential zoning district, the parking or storage of any vehicle, recreational vehicle, or off-highway vehicle is prohibited, unless it is parked or stored on a hardened surface constructed of material treated or covered with brick, block, pavers, stone, concrete, asphalt or crushed decorative rock. The surface must completely extend the entire length of the vehicle. This subsection is subject to the following exceptions:

**PM 302.8.6.1, When such vehicles** are parked on land when the gross acreage of the lot exceeds five (5) acres.

**PM 302.8.6.2, Construction vehicles,** provided they are on the lot where active construction is taking place, or on a lot adjacent or part of the development site thereto.

**PM 302.9, Graffiti,** The exterior of all structures, rocks and trees shall be maintained free from graffiti. Graffiti means, without limitation, any letter, word, name, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on any structure. Structure shall include, but not be limited to, any wall, bridge, fence, gate, or building. This definition shall not include artistic stenciling or legal signage placed on a property with the permission of the owner of the property, or government sponsored murals.

**PM 302.9.1 Display and Storage of and the Signage for Graffiti Implements**

A. **Definitions.** The following words, terms, and phrases, when used in this Subsection shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

**Aerosol paint container,** any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property

**Broad-tipped Marker,** any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or pigmented liquid that is not water soluble.

**Graffiti Implement,** an aerosol paint container, broad-tipped marker, paint stick or graffiti stick.

**Minor,** any person under the age of eighteen (18) years.

**Paint stick or graffiti stick,** any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth of an inch in width.

**B. Restrictions on display and storage:**

1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling any type of graffiti implements shall store such implements in an area continuously observable, through direct visual observation or surveillance equipment, by employees of the retail establishment during the regular course of business.
2. In the event that a commercial retail establishment is unable to store the graffiti implements it sells in an area as provided above, the establishment shall store such implements in an area not accessible to the public in the regular course of business without employee assistance.
3. A minor who is an employee of a person who or an entity which is a vendor of graffiti implements may, in the course of his or her duties, possess such implements for the purpose of lawful sale or transfer, but shall not purchase or obtain

possession of the same for any other purpose.

4. No minor shall at any time of purchase, as specified in this section, knowingly furnish fraudulent evidence of majority.

**C. Required sign,**

1. Every person who operates a retail commercial establishment selling any type of graffiti implements shall place a sign with a minimum height of fourteen (14) inches and a width of twelve (12) inches, with lettering of at least one-half (1/2) inch in height which is in clear public view at or near the display of such products and which states:

**"WARNING: IT IS ILLEGAL TO SELL OR DISTRIBUTE AEROSOL PAINT, PAINT STICKS OR BROAD-TIPPED MARKERS TO ANY PERSON UNDER THE AGE OF EIGHTEEN (18) YEARS OR FOR ANY PERSON UNDER THE AGE OF EIGHTEEN (18) YEARS OF AGE TO POSSESS OR TO ATTEMPT TO PURCHASE SAME. IT IS ILLEGAL IF YOU ARE OVER EIGHTEEN (18) YEARS OF AGE FOR YOU TO PURCHASE AEROSOL PAINT, PAINT STICKS OR BROAD-TIPPED MARKERS FOR A PERSON UNDER EIGHTEEN (18) YEARS OF AGE IF YOU ARE NOT SUCH PERSON'S PARENT, GUARDIAN, SCHOOLTEACHER OR ART OR CRAFT INSTRUCTOR.**

**D. Enforcement.** This Section shall be enforced by the Code Enforcement Constables of the County Land Use Department.

**PM 302.10, Outside Storage of household items,** The outside storage of items designed and manufactured to be used and stored in an enclosed building is prohibited in any residential zoning district. Such items include, but are not limited to, the following: appliances or interior furniture, irrespective of age or condition.

**PM 302.11, Outside storage of debris,** Except during active construction the outside storage of debris, including but not limited to, garbage, trash, rubbish, refuse, rock, rubble, broken concrete, wood (excluding stacked firewood), tires or automobile parts (irrespective of age or condition), is prohibited in any residential zoning district.

**PM 302.12, Responsibility to keep shrubs and trees trimmed,** In any residential zoning district, it shall be the duty of the owner or person responsible of a property to keep shrubbery trimmed so that it does not encroach upon or extend beyond the line of any sidewalk and to trim trees so that no branch extends below a height of seven (7) feet above the width of any sidewalk.

**PM 302.13 Dog or cat excrement,** See Chapter 4 of the *New Castle County Code*.

**PM 302.14 Prohibited animals in certain residential areas.** It shall be unlawful for any owner, tenant or other person in control of a property to raise, breed, keep, shelter or harbor cattle, sheep, goats, pigs, ducks, geese, waterfowl, guinea hens, chickens, turkeys, donkeys, quail, doves, llamas, raccoons, muskrats, non-domesticated mammals, game fowl, pigeons, pheasants, peacocks, foxes, minks, exotic animals, wild animals, game animals and other like animals on a parcel of land which is less than one (1) acres in total area and located in any residentially zoned district, a diversified planned unit development or an MM zoned district.

**PM 302.14.1, Exception: Educational program,** This Section shall not apply to the keeping, sheltering or harboring of animals in connection with bona fide educational programs run or overseen by a public or private elementary, middle or secondary school or college or university or the Delaware Cooperative Extension Education Program, the 4-H or the Newark Pigeon Club, Wilmington Homing Club or Delmarva Pigeon Club. Participation in the educational programs or pigeon clubs listed shall constitute an affirmative defense.

**PM 302.14.2, Exception: Horses,** This Section shall not apply to the keeping, sheltering or harboring of horses.

**PM 302.15, Boats,** The storage of boats other than canoes, kayaks, and row boats on residential property are subject to the provisions of this Section.

**PM 302.15.1 All boats shall** be stored upon a registered trailer which is suitable to transport the boat. A commercially manufactured frame, designed for the storing of sailboats, is also appropriate. *All* trailers and *frames* shall be stored upon a hardened surface constructed of material, treated or covered with brick, block, pavers, stone, concrete, asphalt or crushed decorative rock. The surface must fully accommodate the size of the vehicle. The trailer shall not extend into the right of way.

**PM 302.15.2 The Storing of boats** and boat trailers is prohibited in any street, roadway, or

public right-of-way, or in any street yard including within a driveway. **STAYED BY ACT OF COUNTY COUNCIL 12/5/05 See \* after Section PM 302.15.4**

**PM 302.15.3** *One (1) properly stored* boat may be parked on a residential lot two (2) acres or larger when a 0.5 opacity buffer (as defined by Chapter 40 of the *New Castle County Code*) is established along all property line(s) adjacent to the vehicle. **STAYED BY ACT OF COUNTY COUNCIL 12/5/05 See \* after Section PM 302.15.4**

**PM. 302.15.4** *On lots less than two (2) acres* in size, one (1) properly stored boat (or recreational vehicle) may be stored in the rear yard or side yard (behind the required front setback line) of a residential lot provided that: (a) it is stored parallel to and adjacent to the house or a permanent accessory structure; and (b) a suitable evergreen screen is placed around all sides of the boat or recreational vehicle with the exception of the sized used for ingress/egress. **STAYED BY ACT OF COUNTY COUNCIL 12/5/05 See \* after Section PM 302.15.4**

**Pursuant to Ordinance 05-127, effective December 2 , 2005, a stay was placed upon the enforcement of Sections PM 302.15.2, 302.15.3, 302.15.4 and Sections PM 302.8.5, 302.8.5.2, 302.8.5.3 in order for the New Castle County Council to review and possible revisit the parking requirements for boat trailers and recreational vehicles.**

**Section PM 302.16, Portable temporary storage units.** In any residentially zoned district, the placement of a portable temporary storage unit for non-disposable items is allowed for temporary use by the occupant of the dwelling for thirty (30) days or the time period for which there is an active building permit open on the property. Such portable storage units are subject to the following limitations.

**Section PM 302.16.1,** The temporary storage units shall be set back a minimum of three (3) feet from any property line and;

**Section PM 302.16.2,** The temporary storage units must be placed on either a hard concrete or asphalt surface and may displace one or more off-street parking spaces, provided there is adequate on-street parking;

**Section PM 302.16.2.1, Exception.** In the event that it is unfeasible to place the temporary storage units on either a hard concrete or asphalt surface as required in **Section PM 302.16.2,** the temporary

storage unit may be placed anywhere on the property.

**Section PM 302.16.3,** The location of the temporary storage units shall not affect the health, safety, and/or welfare of the neighborhood including, but not limited to, blocking access to a fire hydrant and obstructing the view of street intersections.

## **SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS**

**PM 303.1, Swimming pools,** Swimming pools whether above ground or in ground shall be maintained in a clean and sanitary condition, and in good repair. Any pool that is not drained for winterization shall be covered.

**PM 303.1.1, Upon Discovery** of a violation of this Section, the County may immediately institute legal proceedings. The Code Official may remedy the violation and seek indemnification of expenses incurred from the violator. Corrective action may include, but shall not be limited to, draining and cleaning the pool, chemically treating the pool to control the growth of bacteria and algae, and/or covering the pool. Corrective action for any pool that is in violation of this Section and that has been unused for a period of three (3) years may include filling of such pool with clean fill or the dismantling and removal of such pool, whichever is deemed appropriate by the Code Official.

**PM 303.1.2, Any expense incurred** by the Code Official under this Section shall be paid by the owner or possessor of the property within ten (10) days after notice thereof by registered certified mail. Upon failure to reimburse the County within the time period specified, the Code Official may: (a) call or collect on any bond or insurance established for this purpose; (b) place a lien on any property within the County held by the person as permitted by State law; or (c) institute a civil action for the recovery of such expense, together and with any penalty and/or interest, against the person, and the County shall be awarded reasonable attorney fees. This Section shall not be construed to limit any other actions or remedies at law or equity.

**PM 303.2 Enclosures.** Swimming pools, hot tubs and spas, more than twenty-four (24) inches in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches in height. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than fifty-four (54) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained

such that the gate will positively close and latch when released from an open position of six (6) inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

**PM 303.2, *Exception***, this Section shall not apply to hot tubs and spas when secured by an approved safety cover.

## SECTION 304 EXTERIOR STRUCTURE

**304.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**304.2 Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**[F] 304.3 Premise identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall be Arabic numerals or alphabet letters. Numbers shall be minimum of 4 inches (102mm) high with a minimum stroke width of 0.5 inch (12.7mm).

**304.4 Structural members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**304.5 Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**304.6 Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**304.7 Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**304.8 Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

**304.9 Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**304.10 Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**304.11 Chimneys and towers.** All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**304.12 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**PM 304.13. Window, skylight and door frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. Temporary boarding of windows, skylights doors and frames, not to exceed fifteen (15) days, shall be permitted.

**304.14.1 Glazing.** All glazing materials shall be maintained free from cracks and holes.

**PM 304.13.2 Openable windows,** Every window other than a fixed window, shall be easily openable and capable of being held in position by window hardware and shall be equipped with a functioning locking device.

**PM 304.14, *Insect screens*,** During the period from April 15<sup>th</sup> to October 15<sup>th</sup>, every window required for ventilation of habitable rooms shall be supplied with tightly fitting screens of not less than (Sixteen) 16 mesh per inch.

**304.15. Doors,** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

**304.16 Basement hatchways.** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**PM 304.17, *Guards for basement windows*,** Every basement window that is openable shall be supplied with rodent or pest shields, storm windows or other approved protection against the entry of rodent and other pests.

## SECTION 305 INTERIOR STRUCTURE

**305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**PM 305.1.1 *Exception*,** Equipment in a vacant structure, if not in good repair, structurally sound and in a sanitary condition, must be secured in such a manner so as not to be hazardous to the health, safety, or welfare of any occupants or to the public.

**305.2 Structural members.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**305.3 Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**305.4 Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**305.5 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**305.6 Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

## SECTION 306 HANDRAILS AND GUARDRAILS

**306.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units, or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**Exception:** Guards shall not be required where exempted by adopted building code.

## SECTION 307 RUBBISH AND GARBAGE

**Section PM 307.1, *Accumulation*,** No owner occupant, possessor or person responsible for a developed or undeveloped parcel of land shall permit rubbish, garbage, trash, refuse, or other waste material to be placed or accumulated upon the interior and/or exterior of such parcel or the right-of-way abutting such parcel.

**Section PM 307.2, *Disposal of rubbish*,** Every owner or person responsible for a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**Section PM 307.2.2, *Appliances*,** Doors and lids of refrigerators and other appliances must be removed or secured prior to disposal.

**Section PM 307.3, *Dumpsters*.** In any residentially zoned district, the placement of dumpsters for disposable items is allowed for temporary use by the occupant of the dwelling for thirty (30) days or the time period for which there is an active building permit open on the property. Such dumpster(s) are subject to the following limitations:

**Section PM 307.3.1,** The dumpster(s) shall be set back a minimum of three (3) feet from any property line; and

**Section PM 307.3.2,** The dumpster(s) must be placed on a hard concrete or asphalt surface and may displace one or more off-street parking spaces, provided there is adequate on-street parking; and

**Section PM 307.3.2.1, Exception.** In the event that it is unfeasible to place the dumpster on either a hard concrete or asphalt surface as required in *Section PM 307.3.2*, the dumpster may be placed anywhere on the property.

**PM 307.3.3,** The location of the dumpster(s) shall not affect the health, safety, and/or welfare of the neighborhood including, but not limited to, blocking access to a fire hydrant and obstructing the view of street intersections.

**PM 307.4 Commercial business,** Every owner or occupant of a commercial business producing garbage or rubbish shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. It shall be unlawful for any person to cause or allow unsightly litter or potentially dangerous materials to remain on any property under his or her control.

**Section PM 307.5, Food Establishments,** Every owner, operator or occupant of a Food establishment (as defined by the North American Industrial Classification System or "NAICS" Code 722, as published by the Federal government) on which garbage is produced, accumulated or generated shall cause such waste to be removed from the premises no less frequently than twice weekly, at intervals no more frequently than seventy-two (72) hours, during the period from April 15<sup>th</sup> to October 15<sup>th</sup>. If such waste is removed more frequently than twice weekly, the seventy-two (72) hour interval shall not apply.

## **SECTION 308 EXTERMINATION**

**PM 308.1, Infestation,** All structures and premises shall be kept free from insect and rodent infestation. All structures and premises in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

**PM 308.2 Owner,** The owner of any structure or premises shall be responsible for extermination within the structure prior to renting or leasing the structure or premises.

**308.3 Single occupant.** The occupant of a one-family dwelling or of a single-tenant non residential structure shall be responsible for extermination on the premises.

**PM 308. 4 Multiple occupancy,** The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination of the interior areas of the structure and exterior property.

**PM 308.5 Owner and Occupant,** The occupant of any structure or premises shall be responsible for the continued rodent and pest-free condition of the structure or premises. Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

## CHAPTER 4

# LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### SECTION 401 GENERAL

**401.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

**401.2 Responsibility.** The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

**401.3 Alternative devices.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *International Building Code* shall be permitted.

### SECTION 402 LIGHT

**402.1 Habitable spaces.** Every habitable space shall have at least one window of approved size facing directly to the out-doors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Whenever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.

**402.2 Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 hundred square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairways shall be illuminated at all times

the building space served by the means of egress is occupied with a minimum of 1 foot-candle (11 lux) at floors, landings and treads.

**402.3 Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

### SECTION 403 VENTILATION

**403.1 Habitable spaces.** Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

**403.2 Bathrooms and toilet rooms.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhaust by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

**403.3 Cooking facilities.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

**Exception:** Where specifically approved in writing by the code official.

**403.4 Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**403.5 Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

## SECTION 404 OCCUPANCY LIMITATIONS

**404.1 Privacy.** Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

**404.2 Minimum room widths.** A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

**404.3 Minimum ceiling heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a ceiling height of not less than 7 feet (2134 mm)

**Exceptions:**

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152mm) below the required ceiling height.
2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study, or recreation purpose, having a ceiling height of not less than 6 feet 8 inches (2033) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

**404.4 Bedroom requirements.** Every bedroom shall comply with the requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Area for sleeping purposes.** Every bedroom occupied by one person shall contain at least 70 square feet (6.5 m<sup>2</sup>) of floor area for each

occupant thereof and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 m<sup>2</sup>) of the floor area for each occupant thereof.

**404.4.2 Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

**Exception:** Units that contain fewer than two bedrooms.

**404.4.3 Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

**404.4.4 Prohibited occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

**404.4.5 Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

**404.5 Overcrowding.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5

**TABLE 404.5  
MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
<b>Living room a,b</b>	<b>No requirements</b>	<b>120</b>	<b>150</b>
<b>Dining room a,b</b>	<b>No requirements</b>	<b>80</b>	<b>100</b>
<b>Bedrooms</b>	<b>Shall comply with Section 404.4</b>		

For SI: 1 square foot = 0.093 m<sup>2</sup>

- a. See Section 404.5.2 for combined living room/dining room spaces
- b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

**404.5.1 Sleeping area.** The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

**404.5.2 Combined spaces.** Combined living room and dining room spaces shall comply with the requirements of Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

**404.6 Efficiency Unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4m<sup>2</sup>). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m<sup>2</sup>). These require areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. The maximum number of occupants shall be three.

**404.7 Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## CHAPTER 5

# PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### SECTION 501 GENERAL

**501.1 Scope.** The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

**501.2 Responsibility.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

### [P] SECTION 502 REQUIRED FACILITIES

**502.1 Dwelling units.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

**502.2 Rooming houses.** At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

**502.3 Hotels.** Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

**502.4 Employees' facilities.** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

**502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

### [P] SECTION 503 TOILET ROOMS

**503.1 Privacy.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior

locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

**503.2 Location.** Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

**503.3 Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152m). Employee facilities shall either be separate facilities or combined employee and public facilities.

**Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152m) from the employees' regular working area to the facilities.

**503.4 Floor surface.** In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

### [P] SECTION 504 PLUMBING SYSTEMS AND FIXTURES

**504.1 General.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks, and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

**504.2 Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

**PM 504.3 Plumbing systems hazards,** All plumbing systems in any structure shall be maintained so as not to constitute a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, improper installation, deterioration or damage or for similar reasons.

## SECTION 505 WATER SYSTEM

**505.1 General.** Every sink lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *International Plumbing Code*.

**[P] 505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sinks faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

**505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**505.4 Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110° (43°). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

## [P] SECTION 506 SANITARY DRAINAGE SYSTEM

**506.1 General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**506.2 Maintenance.** Every plumbing sack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

## SECTION 507 DICHARGE OF CLEAR WATER

**Section PM 507.1 Discharge.** It shall be unlawful, on residential property, to cause, allow or permit any roof drain, surface drain, subsoil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of the premises owned or occupied by said person to discharge onto

adjacent property other than as provided in sections PM 507.1.1 and 507.1.2.

Section PM 507.1.1 *Exception.* Clear water may be legally discharged by any of the aforementioned mechanisms, provided that the point of discharge is in accordance with the following standards: (A) for a primary dwelling, the point of discharge may not extend from the house more than half the distance of the applicable building setback, but in no event closer than five (5) feet from the nearest property line; (B) for an accessory structure, the point of discharge shall not be closer than five (5) feet from the nearest property line; (C) for an attached interior dwelling unit, the point of discharge may be parallel to or away from the common property line so that it is not directed across adjacent properties.

Section PM 507.1.2 Notwithstanding any other provision, it shall be lawful to discharge clear water into a drainage swale or other storm water collection device, in accordance with a recorded water easement or approved drainage or water management plan, or with the approval of any County or State agency.

## CHAPTER 6

# MECHANICAL AND ELECTRICAL REQUIREMENTS

### SECTION 601 GENERAL

**601.1 Scope.** The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

**601.2 Responsibility.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

### SECTION 602 HEATING FACILITIES

**602.1 Facilities required.** Heating facilities shall be provided in structures as required by this section.

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20° C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the *International Plumbing Code*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

**Exception:** In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°) shall be maintained.

**PM 602.3, Heat supply,** Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guestrooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 15<sup>th</sup> to April 15<sup>th</sup> to maintain a temperature of not less than sixty-eight degree Fahrenheit (68°F) (twenty degrees Celsius (20°C)) in all habitable rooms, bathrooms, and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section.

**PM 602.3.1, Exception,** In areas where the average monthly temperature is above is thirty degrees Fahrenheit (30°F) (minus one degree Celsius (-1°C)), a minimum temperature of sixty-five degree Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) shall be maintained.

**Section PM 602.4, Occupiable work spaces,** Indoor occupiable work spaces shall be supplied with heat

during the period from October 15<sup>th</sup> to April 15<sup>th</sup> to maintain a temperature of not less than sixty-five degree Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) during the period the spaces are occupied.

### SECTION 603 MECHANICAL EQUIPMENT

**603.1 Mechanical appliances.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**603.2 Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

**Exception:** Fuel-burning equipment and appliances which are labeled for unvented operation.

**603.3. Clearances.** All required clearances to combustible materials shall be maintained.

**603.4 Safety controls.** All safety controls for fuel-burning equipment shall be maintained in effective operation.

**603.5 Combustion air.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

**603.6 Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliances, to the fuel supply line thereto, or to the vent outlet or vent piping there from, shall not be installed unless labeled for such purpose and the installation is specifically approved.

## SECTION 604 ELECTRICAL FACILITIES

**PM 604.1, *Facilities required.*** All electrical facilities in occupied buildings must be supplied with electricity.

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the ICC *Electrical Code*. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

**PM 604.3, Electrical system hazard.** Every electrical system in a structure shall be maintained so as to not constitute a hazard to the occupants or the structure by reason of inadequate service, improper wiring or installation, deterioration or damage, or for similar reasons.

## SECTION 605 ELECTRICAL EQUIPMENT

**605.1 Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner

**605.2 Receptacles.** Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one ground-type receptacle or a receptacle with a ground fault circuit interrupter protection.

**605.3 Lighting fixtures.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture.

## SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS

**606.1 General.** Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

**606.2 Elevators.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

**Exception.** Building equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

## SECTION 607 DUCT SYSTEMS

**607.1 General.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

## CHAPTER 7 FIRE SAFETY REQUIREMENTS

### SECTION 702 MEANS OF EGRESS

*Section PM 702.1, General.* A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the public way.

*Section PM 702.2, Aisles.* The required width of aisles shall be unobstructed.

*Section PM 702.3, Locked door.* All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys and special knowledge or effort.

### SECTION 704 FIRE PROTECTION SYSTEMS

*Section PM 704.1, General.* All systems, devices, and equipment to detect a fire, activate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times.

*Section PM 704.2, Smoke Alarms.* Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

*Section PM 704.3.1. Exception:* Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure in accordance with Chapter 6 ("Buildings and Structures") of the *New Castle County Code*.

*Section 704.4, Interconnection.* Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarms shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

*Section 704.4.1.* Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind in accordance with Chapter 6 ("Buildings and Structures") of the *New Castle County Code*.

*Section 704.4.2.* Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes in accordance with Chapter 6 ("Buildings and Structures") of the *New Castle County Code*.

## CHAPTER 8 REFERENCED STANDARDS

This Chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7

**ICC** International Code Council  
5203 Leesburg Pike, Suite 600  
Falls Church, VA 22041

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Standard reference number	Title	Referenced in code section number
OCC EC-03	ICC Electrical Code™ - Administrative Provisions	201.3, 604.2
IBC-03	International Building Code®	201.3, 401.3, 702.3
IEBC-03	International Existing Building Code™	101.3, 102.3, 201.3
IFC—03	International Fire Code®	201.3, 702.1 702.2, 704.1, 704.2
IMC-03	International Mechanical Code®	201.3
IPC-03	International Plumbing Code®	201.3, 505.1, 602.2, 602.3

Chapter 8, *Referenced Standards*, is amended by deleting all references to the *International Zoning Code*.