

CHAPTER 7 – PROPERTY MAINTENANCE CODE

ARTICLE 1. - STANDARDS FOR PROPERTY MAINTENANCE

Sec. 7.01.001. - Adoption of the International Property Maintenance Code.

The International Property Maintenance Code, 2018 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, 2018 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 changes, if any, prescribed in Section 7.01.002.

(Ord. No. 04-057, § 1(Exh. A), 5-24-2005; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-123, § 1, 12-11-2018)

Sec. 7.01.002. - Amendments to the International Property Maintenance Code.

Certain sections and subsections of the International Property Maintenance Code, 2018 edition, adopted in Section 7.01.001, are hereby added, deleted, amended, changed and clarified as follows. Note: Although the International Property Maintenance Code, 2018 edition, does not identify sections with a "PM" designation, such a designation is utilized to avoid any confusion as to what Code the amendment relates.

CHAPTER 1. ADMINISTRATION

SECTION PM 101. GENERAL

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

Section PM 101.1, Title. These regulations shall be known as the New Castle County Property Maintenance Code, hereinafter referred to as "this Chapter".

Section PM 101.1.1, Jurisdiction, is added as a new subsection to read as follows:

Section PM 101.1.1, Jurisdiction. This Chapter shall regulate all housing and property maintenance on properties located in unincorporated New Castle County and in any of the incorporated municipalities that elect to have New Castle County provide code enforcement services.

Section PM 101.4, Severability, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 101.4, Severability. The provisions of this Chapter shall be severable. If any provision of this Chapter 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 this Chapter.

Section PM 101.5, Conflict, is added as a new subsection to read as follows:

Section 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.

Section PM 101.6, No liability created, is added as a new subsection to read as follows:

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

Section PM 101.7, Effect upon suits, proceedings, rights, liabilities is added as a new subsection to read as follows:

Section PM 101.7, Effect upon suits, proceedings, rights, liabilities. Nothing in this Chapter 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 Chapter.

Section PM 101.8, Appendix is added as a new subsection to read as follows:

Section 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 change to the Appendix shall be published in the Saturday News Journal at least thirty (30) days before such change is to be 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 any amendments thereto.

SECTION PM 102. APPLICABILITY

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

Section 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. Nothing in this Chapter shall be construed to cancel, modify or set aside any provisions of Chapter 40.

Section PM 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, and when the code provisions would otherwise affect the historic integrity of the structure, as determined in conjunction with the Historic Review Board. Nothing contained in this Chapter 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. This is to be read and enforced in conjunction with the provisions of Section PM 102.6.1.

Section PM 102.6.1. Maintenance of property in historic overlay zoning districts - demolition by neglect. The owner, lessee, or other person in charge of a structure or property in historic overlay zoning districts shall comply with all applicable codes, laws and regulations governing the maintenance of property, with the exception set forth in 102.6 above. No officially-designated historic structure or contributing structure on property within an historic overlay zoning district shall be allowed to deteriorate due to neglect by the owner, lessee or other person in charge. Demolition by neglect shall include any one or more of the following courses of action or inaction: a) deterioration of the structure's exterior to the extent that it creates or permits a hazardous or unsafe condition; b) deterioration of exterior walls or other vertical supports, roofs, chimneys, horizontal members, exterior wall elements including, but not limited to, wooden walls, brick, plaster or mortar to the extent that it adversely affects the character of the historic structure or could lead to irreversible damage to the structure; c) defective or insufficient weather protection for the exterior walls roofs foundations, doors and windows, including broken windows or doors and including lack of paint or other protective covering on exterior walls; d) or other appropriate property maintenance standards. The Code Official shall proactively inspect all properties subject to this subsection, twice annually, or as determined by the Code Official, from a list provided by the Historic Review Board, cite all violations as customary or as required in conjunction with the Historic Review Board as set forth above and promptly submit a written report on each violation with photographic documentation on each inspection to the Historic Review Board.

Section PM 102.7, Referenced codes and standards, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 102.7, Referenced codes and standards. The codes and standards referenced herein shall be considered part of the requirements of this Chapter to the prescribed extent of each such reference. Where differences occur among this Chapter, and the referenced standards, the provisions of this Chapter shall prevail over the provisions of the International Codes, and the provisions of the International Codes shall prevail over any referenced standards.

Section PM 102.11, Savings clause, is added as a new subsection to read as follows:

Section PM 102.11, Savings clause. This Chapter 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 PM 103. DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

Section PM 103, Department of Property Maintenance Inspection, is amended by deleting the section in its entirety.

SECTION PM 104. DUTIES AND POWERS OF THE CODE OFFICIAL

Section PM 104.7, Liability, is added as a new subsection to read as follows:

Section PM 104.7, Liability. The Code Official, member of the Board of License, Inspection and Review or employee charged with the 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 Section 2.03.200.

SECTION PM 106. VIOLATIONS

Section PM 106.1, Unlawful acts is amended by deleting the subsection in its entirety and substituting the following:

Section PM 106.1, Violations; generally. Any person who shall violate any provision(s) of this Chapter 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 Chapter.

Section PM 106.3, Prosecution of violation, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 106.3, Enforcement.

Section PM 106.3.1, Administrative enforcement. Any person violating the provisions of this Chapter 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 (Actions subject to 3-year limitation).

Section PM 106.3.1.1, Notice to owner or person responsible. Whenever the Code Official determines that there has been a violation of this Chapter or has reasonable grounds 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).

Section PM 106.3.1.1.1, Form. The form of such notice prescribed in Section PM 106.3.1.1, shall be in accordance with Section PM 107.2.

Section 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.

Section 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 provision of this Chapter, where the same violation is alleged by the Code Official to exist; or

b. In the event that a 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).

Section PM 106.3.1.1.4, Reinspection Fee. Any property owner who fails to correct a non-ticketable infraction by the date set in the notice of violation, shall be subject to a reinspection fee as established in the Schedule of Code Enforcement Fees at the end of this Chapter.

Section PM 106.3.1.2, Ticketing. Pursuant to 9 Del. C. Ch. 29 ("Property Maintenance"), and 25 Del. C. Ch. 29. ("Liens of the State and/or its Political Subdivisions"), the Code Official shall have the authority to issue ticket(s) to the owner of a property, regardless of whether the owner actually resides upon the property, including any vacant lots, for violations of PM 302.1, Sanitation; Section PM 302.4, Prohibited growth of grass and weeds; PM 302.7, Accessory Structures; PM 302.8.3, Inoperable or unregistered vehicles; PM 302.8.4, Oversized vehicle parking; PM 302.8.6, Parking of vehicles; PM 302.10, Outside storage of household items; PM 302.11, Outside storage of debris; PM 302.12, Responsibility to keep shrubs and trees trimmed; PM 302.16, Portable temporary storage units; PM 303.1, Swimming pools; PM 307.1, Accumulation; and PM 307.2, Disposal of rubbish.

Section PM 106.3.1.2.1, Procedure. Whenever the Office of Code Enforcement receives a complaint that there has been a violation(s) of the above-referenced sections, a notice of alleged violation(s) shall be given to the owner of the property. The owner shall be responsible for correcting such violation(s) within ten (10) calendar days. If the Code Official determines that the violation(s) remains after the tenth (10th) calendar day, the owner of the property on which such non-compliance exists shall be subject to, and liable for, a civil penalty in the amount of fifty dollars (\$50.00). If a ticketed violation is not corrected after issuance of a first ticket, then the owner of the property will be subject to, and liable for, additional civil penalties in the amounts of seventy-five dollars (\$75.00) for a second ticket for the same infraction issued within one year of the date of the notice of violation, and one hundred dollars (\$100.00) for subsequent tickets issued for the same infraction within one year of the date of the notice of violation. Civil penalties shall double if not paid within thirty (30) calendar days from the date of the citation. In no case shall the Code Official be required by this Section to provide notice within a twelve (12) month period to any owner previously provided notice pursuant to this Section where the same Code violation exists.

Section PM 106.3.1.2.2, Citation. Any citation issued for failure to comply with any provision identified in Section PM 106.3.1.2 shall be mailed to the owner of the property that is the subject of the citation. Pursuant to 9 Del. C. § 2907 and 25 Del. C. § 2901, civil penalties may be added to the County property tax billings for the property which was the subject of the citation. Additional civil penalties shall also double if not paid within thirty (30) calendar days from the date of the respective citation.

Section PM 106.3.1.2.2.1, Continuing violations. After the recipient of a ticket(s) has an opportunity to appeal the ticket(s) as permitted by Section PM 106.3.1.2.4, the violation shall constitute a continuing violation; a ticket for the same violation may be issued each day the violation continues and a separate penalty for each day may be imposed.

Section PM 106.3.1.2.3, State of mind. It shall be unnecessary to prove the violator's state of mind with regard to the failure to comply with any provision of this Section, as the legislative purpose is to impose strict liability for such non-compliance.

Section PM 106.3.1.2.4, Appeals. The owner of a property aggrieved by any civil penalty imposed pursuant to Section PM 106.3.1.2 may follow any one of the following methods to appeal the ticket:

Section PM 106.3.1.2.4.1, Request a hearing before an administrative hearing officer. Within ten (10) business days of the date of the citation, the recipient of the ticket may request a pre-deprivation hearing from the Department of Land Use Code Official as described in Section 106.3.1.3 below.

Section PM 106.3.1.2.4.2, Submit a detailed written explanation. In lieu of personally appearing before an administrative hearing officer as provided for in Section PM 106.3.1.2.4.1 above, the recipient of the ticket, at their sole discretion, may, within ten (10) business days of the date of the citation, file a detailed written explanation of the grounds for the appeal to the Code Official. The Code Official shall issue a written decision affirming, modifying, reversing, revoking or vacating the civil penalty within ten (10) calendar days of receipt of the written explanation of the grounds for the appeal.

Section PM 106.3.1.2.4.3, Fee. The fee for filing an appeal under this Section is set forth in the appendix to this Chapter. Such fee shall not be charged if the applicant prevails on all issues presented to the Code Official or at any level of appeal.

Section PM 106.3.1.2.4.4, Stay. Except as provided for in Section 108 of this Chapter, an appeal of a violation under this Section shall act as an automatic stay of the action being appealed.

Section PM 106.3.1.2.4.5, Appeal. The decision of the Code Official made pursuant to this Section must be appealed in accordance with Section PM 106.3.1.6, Administrative appeal.

Section PM 106.3.1.2.5, Exception. The provisions of Section PM 106.3.1.2 shall not apply to maintenance corporations established under the Unified Development Code or an earlier version of the County Code to maintain private open space and common facilities serving residential subdivisions.

Section PM 106.3.1.3, Show Cause or pre-deprivation hearing. Except as provided in Section PM 106.3.1.2.1 and Section PM 109.6, if such violations are not remedied within the time specified, the Code Official shall schedule a Show Cause or pre-deprivation hearing and provide the person an opportunity to defend his, her, or its conduct prior to any penalty being imposed. After such Show Cause or pre-deprivation 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 detailing 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 or pre-deprivation hearing fee as set forth in the Appendix to this Chapter.

Section PM 106.3.1.4, 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.

Section PM 106.3.1.5, Administrative penalty provisions. The following administrative penalties may be imposed by the Code Official:

Section PM 106.3.1.5.1, Administrative fines. Notwithstanding any other section of this Code, any person who is found during a Show Cause or pre-deprivation hearing 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, as if that person were convicted in a court of law, 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 the 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 et seq. (Abatement; creation of tax lien).

Section PM 106.3.1.5.2, 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 for the cost incurred. If the violator fails 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.

Section PM 106.3.1.5.3, Voluntary assessment. A Code Enforcement Officer may issue a summons to a person the officer has reasonable ground 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 Code Enforcement Officer may provide that, in lieu of appearing in court, the offender may correct the offense(s) and remit a voluntary assessment of up to two hundred dollars (\$200.00) for each offense cited. The summons may provide that each day such violation continues shall constitute a separate offense.

State Law reference— Similar provisions, 10 *Del. C.* § 2902(f).

Section PM 106.3.1.6, Administrative appeal.

Section PM 106.3.1.6.1, Appeal to the Board of License, Inspection and Review. Any person aggrieved by any administrative enforcement action taken pursuant to this Chapter, or any person who in good faith claims that the true intent of this Chapter or the rules legally adopted there under have been incorrectly interpreted, the provisions of this Chapter 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 Chapter.

Section PM 106.3.1.6.2, Time. All appeals shall be filed with the 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.

Section PM. 106.3.1.6.3, Standard of review. On appeal, the Board shall hear any evidence which the aggrieved party or the County may desire to offer.

Section PM 106.3.1.6.4, 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.

Section PM 106.3.1.6.5, 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 it was neither arbitrary and capricious nor contrary to law.

Section PM 106.3.1.6.6, 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.

Section PM 106.3.1.6.7, Fee. The fee for filing of an appeal under this Section is set forth in the Appendix to this Chapter. Such fee shall be refunded to the applicant if it prevails on all issues presented to the Board after any right(s) to appeal have expired or have been exhausted.

Section PM 106.3.1.6.8, 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.

Section 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.

Section PM 106.3.2.1, Dismissal of charges. Any person subject to criminal prosecution under this Chapter 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.

Section 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.

State Law reference— Similar provisions, 11 *Del. C.* § 5917.

Section PM 106.3.2.3, Penalties. Violations of this chapter shall be deemed 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 deems 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 (\$1,000.00).
- b. For the second conviction for the same offense, the penalty shall be a fine of not less than five hundred dollars (\$ 500.00), nor more than two thousand five hundred dollars (\$ 2,500.00).
- c. For all subsequent convictions for the same offense, the penalty shall be a fine of no less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00). 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 11 *Del. C.* § 4101 (Payment of fines, costs and restitution upon conviction), 25 *Del. C.* § 2901 et seq. (Liens of the State and/or its political subdivisions) or 9 *Del. C.* § 2907 et seq. (Abatement; creation of tax lien).

State Law reference— Similar provisions, 11 *Del. C.* § 5917(a).

Section PM 106.3.2.4, Continuing violations. Each day any violation of this Chapter 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.

Section PM 106.3.3, Civil enforcement. Any person violating the provisions of this Chapter 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 Chapter.

Section PM 106.4, Violation penalties, is amended by deleting the subsection in its entirety.

Section PM 106.5, Abatement of violation, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 106.5, Abatement of violation. The imposition of the penalties and remedies herein prescribed shall not preclude the Code Official or his or designee 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.

Section PM 106.5.1, 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.

Section PM 106.5.2, Remedies. Upon failure to reimburse the County within the time period specified, the County may:

- a. Call or collect on any bond or insurance established for this purpose;
- b. 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; or
- c. Institute a civil action for the recovery of such expense, together and with 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.

State Law reference— Similar provisions, 9 Del. C. § 1315.

Section PM 106.6, Extensions is added as a new subsection to read as follows:

Section PM 106.6, Extensions. Application for an extension of the time frame to correct the violations addressed in the violation notice may be made in writing to the Code Official. The

Code Official is authorized to grant, in writing, one (1) 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 violation 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

Section PM 107.1, Notice to person responsible, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 107.1. Notice to owner or person responsible. Whenever the Code Official determines that there has been a violation of this Chapter, 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 Chapter. Notices for condemnation procedures shall also comply with Section PM 108.3.

Section PM 107.2, Form, is amended by deleting the subsection in its entirety and substituting the following:

Section 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
- d. Include a directive indicating the time to make the repairs and improvements required to bring the premises into compliance with the provisions of this Chapter.

Section PM 107.3. Method of service, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 107.3. 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; or
- 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.

Section PM 107.3.1. Method of service exception, is added as a new subsection to read as follows:

Section 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.

Section PM 107.4. Penalties, is amended by deleting this subsection in its entirety.

Section PM 107.5. Transfer of ownership, is amended by deleting the subsection in its entirety.

SECTION PM 108. UNSAFE STRUCTURES AND EQUIPMENT; UNFIT STRUCTURES; UNLAWFUL STRUCTURES

Section PM 108. Unsafe Structures and Equipment is amended by adding the following "; Unfit Structures; Unlawful Structures." at the end of the title.

Section PM 108.1, General, is amended by deleting this subsection in its entirety and substituting the following:

Section 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.

Section PM 108.1.1. Unsafe structures, is amended by adding "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 Chapter." at the end of the paragraph.

Section PM 108.1.2. Unsafe equipment, is amended by adding "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." at the end of the paragraph.

Section PM 108.1.3. Structure unfit for human occupancy, is amended by deleting this subsection in its entirety and substituting the following:

Section 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 Chapter, 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 Chapter.

Section PM 108.1.4. Unlawful structure, is amended by deleting this subsection in its entirety and substituting the following:

Section 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 Chapter, or was erected, altered or occupied contrary to law. All unlawful structures shall be made lawful.

Section PM 108.2. Closing of vacant structures, is amended by deleting the subsection its entirety.

Section 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, or served on the owner, owner's authorized agent, or the person responsible in accordance with Section PM 107.3. If the notice pertains to equipment, it also shall be placed on the equipment. All notices shall be in the form prescribed by Section PM 107.2.

Section PM 108.4. Placarding. Upon failure of the owner, owner's authorized agent, 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.

Section PM 108.5. Prohibited occupancy. Any occupied structure condemned and placarded 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, owner's authorized agent, 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 Chapter. 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.

Section PM 108.6. Abatement. In addition to any other remedy, upon failure of the owner, owner's authorized agent, 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 condition or demolish 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 PM 108.8. Restricted Entry. Property owners, their representatives and contractors may enter a placarded property that has been declared as unsafe, unlawful, or unfit, from 7am - 7pm, solely to eliminate defects to make the premises habitable. Entry onto the property outside of 7am - 7pm must be approved in advance in writing by the Code Official.

SECTION PM 109. EMERGENCY MEASURES

Section PM 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 care 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 demolishing the same.

Section PM 109.1.2. Imminent danger of demolition by neglect of designated historic structures or contributing structures in historic overlay zoning districts. If it is determined by the code official after consultation with, and a decision by, the Historic Review Board, that there is imminent danger of the loss of a designated historic structure or contributing structure or a feature that contributes to the historic integrity of a structure within a historic overlay zoning district via demolition by neglect, and after prior required notice and an opportunity to cure as set forth elsewhere in this chapter and in Chapter 40, the Office of Law may be requested to seek injunctive relief deemed necessary and appropriate to preserve the structure and/or to pursue emergency repairs as set forth in Section PM 109.4-5.

Section PM 109.3. Closing streets, is amended by deleting the subsection in its entirety.

Section PM 109.4. Emergency repairs. is amended by deleting the subsection in its entirety and substituting the following:

Section 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.

Section PM 109.5. Cost of emergency repairs, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 109.5. Cost of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the County. The County Attorney 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 PM 109.6. Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Code Official, be afforded a hearing as described in this Chapter.

SECTION PM 110. DEMOLITION

Section PM 110.3. Failure to comply. If the owner, owner's authorized agent, or person responsible for a premises fails to comply with a demolition order within the time 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 cost 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.

Section PM 110.4. Salvage materials, is amended by deleting the subsection in its entirety.

SECTION PM 111. MEANS OF APPEAL

Section PM 111. Means of Appeal, is amended by deleting the section in its entirety and substituting the following:

SECTION PM 111. STRUCTURES OR PREMISES

Section PM 111.1. General. All vacant structures and surrounding premises shall be maintained in a safe, secure and sanitary condition as provided in this Chapter 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:

Section PM 111.1.1, Replacing any broken windows;

Section PM 111.1.2, Replacing deteriorated roofing or siding;

Section PM 111.1.3, Trimming shrubbery and grass;

Section 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;

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

Section PM 111.1.6, Removing or correcting any condition detrimental to the safety of the general public;

Section 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 facade. When securing a vacant structure, materials used to secure a structure shall be surface coated to match the façade of the structure; and

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

Section 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.

Section 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 an estimate of time required to fully comply with the provisions 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.

Section 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.

SECTION PM 112. STOP WORK ORDER

Section PM 112.4, Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable under the allowable enforcement actions of Section PM 106.3.

CHAPTER 2. DEFINITIONS

SECTION PM 201. GENERAL

Section PM 201.3, Terms defined in other codes, mended by deleting the subsection in its entirety and substituting the following:

Section PM 201.3. Terms defined in other codes. Where terms are not defined in this Chapter 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.

Section PM 201.5. Parts, is amended by deleting the subsection in its entirety and substituting the following:

Section 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 Chapter, they shall be construed as though they were followed by the words "or any part thereof".

SECTION PM 202. DEFINITIONS

Accessory Structure, is added as a new definition to read as follows:

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.

Accumulation, is added as a new definition to read as follows:

Accumulation, includes the holding, storing, stockpiling, amassing, gathering or mere presence, without regard to whether the act of accumulating was done by the property owner or another with or without the permission of the property owner.

Administrative Tribunal, is added as a new definition to read as follows:

Administrative Tribunal, shall mean a Show Cause Hearing before the Code Official for New Castle County.

Boat, is added as a new definition to read as follows:

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, is added as a new definition to read as follows:

Building Code Official. The Code Official as defined herein.

Clear water, is added as a new definition to read as follows:

Clear water, shall mean storm water, groundwater, roof run-off, yard drainage, yard fountain, hot tub or pool drainage, pond overflow or any substance other than sanitary sewage.

Code Official, is amended by deleting the definition in its entirety and substituting the following:

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.

Commercial business, is added as a new definition to read as follows:

Commercial business. Any enterprise other than an agricultural enterprise or industrial business and may include but is not limited to wholesale, retail and 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.

Condemn, is amended by deleting the definition in its entirety and substituting the following:

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

County. is added as a new definition to read as follows:

County. New Castle County, Delaware.

Debris, is added as a new definition to read as follows:

Debris, means material which is stored externally and exposed to the elements or partially covered with tarps or plastic. This definition includes, but is not limited to, the following: indoor furniture, discarded household goods or appliances and appliance parts, inoperative or discarded machinery, automobiles, automobile parts, airplane and helicopter parts, refuse, rubbish, trash or junk, broken concrete, bricks, blocks or other mineral matter, bottles, scrap or discarded lumber, pipe, steel, paper, cardboard, insulation or other building materials.

Demolish or demolition, is added as a new definition to read as follows:

Demolish or demolition. The razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. Demolition includes the removal of a building, structure, or object from its site, the removal or destruction of the facade 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 as defined in Chapter 40.

Department of Land Use, is added as a new definition to read as follows:

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

Department of Public Works, is added as a new definition to read as follows:

Department of Public Works. The New Castle County Department of Public Works.

Developed parcel, is added as a new definition to read as follows:

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

Domestic animal means a dog, cat, or other animal, the keeping of which is not otherwise prohibited, that has been raised or maintained in confinement or otherwise domesticated as to live in a tame condition.

Dumpster, is added as a new definition to read as follows:

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 unit, is amended by deleting the definition in its entirety and substituting the following:

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.

Family, is added as a new definition to read as follows:

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.

Grass, is added as a new definition to read as follows:

Grass, shall mean any of various plants having narrow leaves, hollow jointed stems, and spikes or clusters of membranous flowers borne in smaller spikelets.

License, is added as a new definition to read as follows:

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, is added as new definition to read as follows:

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 or identified in the New Castle County Historic Sites working list contained in Appendix of this Code.

Noxious Weed, is added as new definition to read as follows:

Noxious Weed, shall denote those plant species designated as noxious weeds by the State of Delaware, including, but not limited to, Johnsongrass (*Sorghum halepense*), Canadian Thistle (*Cirsium arvense*), Burcucumber (*Sicyos angulatus*) and Giant Ragweed (*Amrosia trifida*).

Oversized Vehicle, is added a new definition to read as follows:

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 eight thousand (8,000) pounds.

Owner, is amended by deleting the subsection in its entirety and substituting the following:

Owner. Any person, agent, operator, firm, corporation or artificial entity having a legal or equitable interest in a property; or recorded in the official records of the state, county or municipality as holding title to the 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, is added as new definition to read as follows:

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

Person, is amended by deleting the subsection in its entirety and substituting the following:

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, is added as a new definition to read as follows:

Person Responsible. shall be an owner or any other persons who have control over the property or are responsible for the violation.

Premises, is amended by deleting the subsection in its entirety and substituting the following:

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

Recreational vehicle, is added as a new definition to read as follows:

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, is added as a new definition to read as follows:

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

Rubbish, is amended by deleting the subsection in its entirety and substituting the following:

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 (except in incorporated areas that have adopted a forest stewardship policy which encourages fallen trees, tree limbs and tree branches to remain for return to organic matter), yard trimmings, cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Self-contained portable toilets means one or more commercially-manufactured or assembled self-contained toilet facility that is portable and is not designed or intended for connection to a sewer system with a standard connection. Portable toilets shall include, but not be limited to, water flush toilets or chemical toilets that have water tight, impervious pails or tanks containing a chemical solution placed immediately beneath the seat or urinal and a pipe or conduit connecting the riser with the tank.

Storage, is added as a new definition to read as follows:

Storage, shall mean the temporary storing, holding, keeping or stockpiling.

Strict liability offense, is deleted in its entirety.

Structure, is amended by deleting the subsection in its entirety and substituting the following:

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.

Undeveloped parcel, is added as a new definition to read as follows:

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

Vacant premises, is added as a new definition to read as follows:

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

Weed, is added as a new definition to read as follows:

Weed, shall mean all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Wooded means that portion of a parcel that is densely covered with growing trees, including but not limited to, a mature or young forest or critical natural area.

Workmanlike, is amended by deleting the subsection in its entirety and substituting the following:

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

CHAPTER 3. GENERAL REQUIREMENTS

SECTION PM 301. GENERAL

Section PM 301.1, Scope, is amended by deleting the subsection in its entirety and substituting the following:

Section 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.

Section PM 301.2. Responsibility, is amended by deleting the subsection in its entirety and substituting the following:

Section 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 Chapter. 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 PM 301.3. Vacant structures, is amended by deleting the subsection in its entirety.

SECTION PM 302. EXTERIOR PROPERTY AREAS

Section PM 302.1. Sanitation. Exterior property and premises shall be maintained in a clean, safe, and sanitary condition, free from the accumulation of any feces. The occupant shall keep

that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition. The storage and use of horse manure shall be exempt from this provision.

Section PM 302.2. Grading and drainage, is amended by deleting the subsection in its entirety.

Section PM 302.4. Weeds, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 302.4. Prohibited growth of weeds and grass.

Section PM 302.4.1. Undeveloped parcels. Weeds and grass on undeveloped parcels adjacent to developed parcels shall be no greater than eight (8) inches high within twenty (20) feet of any property line. Any parcel shown on a land development plan in any residential zoning district shall be considered a developed parcel if any lot located on the plan has received a certificate of occupancy.

Section PM 302.4.2. Developed parcels. Weeds and grass on developed parcels shall be no more than eight (8) inches high; provided, however, on a parcel of land that is larger than one (1) acre and has a building lot coverage of less than five (5) percent, weeds and grass shall be no more than eight (8) inches high within twenty (20) feet of any property line.

Section PM. 302.4.3. Exception, Weeds do not include: (a) ornamental shrubs and trees, (b) a wildflower meadow maintained and located no less than ten (10) feet from any property line, and (c) bamboo from the genera *Phyllostachys*, *Pseudosasa*, and *Bambusa*.

Section 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.

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 30th, if such parcel contains a population of environmentally invasive plants, identified in Appendix III of Chapter 40, significant enough in volume, number or size to cause harm to neighboring properties.

Section PM 302.4.6. Application to agricultural parcels. This Section shall not apply to any parcel that is a farm or property used exclusively for agricultural purposes.

Section 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 State approved plan, including, but not limited to, a landscape plan, record plan, reforestation plan or natural resource area management plan.

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

Section PM 302.4.8.1. Trees. Outside of wooded areas, all trees shall be free from dead limbs or branches and dead trees shall be removed.

Section PM 302.4.8.2. Shrubbery. All shrubbery shall be maintained so as not to encroach upon or extend beyond the line of any walkway or driveway. All shrubbery shall be trimmed from blocking any doors or hatchways.

Section PM 302.4.9. Noxious Weeds, shall not be allowed to exceed twenty-four (24) inches in height or to produce seed. Except as otherwise recommended by the Delaware Department of Agriculture, noxious weeds shall be controlled and/or eradicated through mowing and the 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 30th of each year. Additional treatment shall be required later in the year as needed to control and/or eradicate the noxious weeds.

Section 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.

Section PM 302.4.10.1 Bamboo from the genera *Phyllostachys*, *Pseudosasa*, and *Bambusa* shall not be permitted on any parcel except as provided below.

(1) *Above-ground planters.* The root system of the bamboo plant must be entirely contained within an above-ground level planter, barrel, or other vessel of such design, material and location as to entirely prevent the spread/growth of the bamboo plant's root system beyond the container in which it is planted.

(2) *In-ground bamboo.* The bamboo must be located at least fifty (50) feet from any property line.

(3) *Limited waiver for existing bamboo.* The property owner must secure a waiver from the Code Official allowing existing bamboo to continue to be maintained on the property in its current or proposed location. Such waiver only may be issued and shall remain valid only upon the submission of an application demonstrating compliance with the following conditions.

a. The bamboo existed on the property prior to January 1, 2017;

b. The bamboo is kept and maintained within the applicant's property lines and does not encroach on an adjoining parcel unless the adjoining property owner is a co-applicant of the waiver request;

c. The applicant submits a survey, subject to the approval of the Code Official, delineating the defined area in which the bamboo is to be maintained; and

d. The bamboo is maintained to prevent its spread outside of the defined area by a rhizome barrier or by regular cutting and trimming of the perimeter of the bamboo. Where a barrier is provided:

i. It shall be composed of a high-density polypropylene or polyethelene, 80 mil or heavier;

ii. Each portion or sheet of the barrier shall overlap by no less than twelve (12) inches to avoid breach and be secured or joined together by the use of adhesive designed for such purpose, stainless steel clamps or stainless-steel closure strips designed for such barriers;

iii. It shall be installed not less than 30 inches deep;

iv. It shall be circular or oblong shaped;

v. Not less than three (3) inches of the barrier shall protrude above ground level around the entire perimeter of the barrier;

vi. It shall slant outward from the bottom to the top;

vii. An alternative containment system may be used if a licensed landscape architect certifies that such barrier offers protection against the bamboo's spread equal or greater to the barrier herein described.

Section PM 302.6. Exhaust vents, is amended by deleting the subsection in its entirety.

Section PM 302.7. Accessory structures, is amended by deleting the subsection in its entirety and substituting the following:

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

Section PM 302.8. Motor vehicles, is amended by deleting the subsection in its entirety and substituting the following:

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

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 21 *Del. C.* § 101 (Motor Vehicles) shall be used.

Section 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 unattended vehicle or off-highway vehicle found in violation of this section.

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:

Section PM 302.8.3.1. On farmland as defined in 9 Del. C. § 8330 (Agricultural use land), when such vehicles are used for agricultural purposes.

Section 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.

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

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

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

Section PM 302.8.3.6. Towing inoperable, unregistered or abandoned vehicles from private property, in any zoning district, Code Enforcement Officers will have 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* (Abandoned vehicles). 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 which displays no registration plates, 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.

Section 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 owned by the owner or occupant of the private property where the vehicle is located, Code Enforcement Officers may enter upon the property where such vehicle is located to ascertain its ownership. The Code Enforcement Officer 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 Code Enforcement Officer 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 of the affixing of the sticker the vehicle will be towed. This Section 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.

Section 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 so removed, it will be removed and stored at a storage area designated by the New Castle County Police Department at the owner's expense, and thereafter will be subject to disposal in accordance with law. Such notice shall also set forth verbatim the language in 21 *Del. C.* § 4414 (Penalty; evidence of willful abandonment).

Section 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 eighty 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:

Section PM 302.8.4.1. When such a vehicle is on the 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.

Section PM 302.8.4.2. One oversized vehicle may be parked on a residential lot two (2) acres or larger when completely screened from view of other residentially zoned properties and all streets by a fence, dwelling and/or buffer.

Section PM 302.8.4.3. Up to two (2) oversized vehicles may be parked on a residential lot one (1) acre or larger in size, if the property has direct access to a collector or arterial street, and the vehicles are completely screened from view of other residentially zoned properties and all streets by a fence, dwelling and/or vegetative buffer.

Section PM 302.8.5. Recreational vehicle. It shall be unlawful to connect a recreational vehicle to any public utilities which supply electric, water or gas and reside in such vehicle while on the property; subject to PM 302.8.5.1.

PM 302.8.5.1. Temporary Permit A person visiting a lot owner or occupant may park his or her recreational vehicle on the driveway or approved hardened and treated surface of the lot for a period not to exceed fourteen (14) days, provided a temporary permit from the New Castle County Department of Land Use 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.

Section 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 and width of the vehicle. This subsection is subject to the following exceptions:

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

Section 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.

Section PM 302.8.7. Construction Equipment shall not be parked or stored in residentially zoned areas, or on residential property in other zones, or on sites that have not been permitted or approved for such use. Construction equipment shall include, but is not limited to, cranes, backhoes, trackhoes, bulldozers, skid steers, fork lifts, tractors, excavators, graders, loaders, trenchers, scrapers, dump trucks, pavers, rollers, compactors, portable cement mixers, wheeled generators, chippers.

Section PM 302.8.8. Airplanes and helicopters, and parts of airplanes and helicopters, shall not be parked or stored on residentially zoned parcels or on properties being used for a residential use in other zones.

Section PM 302.9. Defacement of property, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 302.9. Graffiti. The exterior of all structures, rocks, vehicles, boats 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 illicitly drawn, painted, chiseled, scratched or etched. 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.

Section PM 302.9.1. Display and Storage of and Signage for Graffiti Implements.

Section PM 302.9.1.1. Definitions. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Aerosol paint container means 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 means 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 ($\frac{1}{4}$) of an inch, containing ink or other pigmented liquid that is not water soluble.

Graffiti implement means an aerosol paint container, broad-tipped marker, paint stick or graffiti stick.

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

Paint stick or graffiti stick means 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 ($\frac{1}{8}$) of an inch in width.

Section PM 302.9.1.2. Restrictions on Display and Storage.

Section PM 302.9.1.2.1. 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.

Section PM 302.9.1.2.2. 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.

Section PM 302.9.1.2.3. 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 purposes of lawful sale or transfer, but shall not purchase or obtain possession of the same for any other purpose.

Section PM 302.9.1.2.4. No minor shall, at the time of purchase, as specified in this section, knowingly furnish fraudulent evidence of majority.

Section PM 302.9.1.3. Required Sign. 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 ($\frac{1}{2}$) 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.

Section PM 302.9.1.4. Enforcement. This Section shall be enforced by the Code Enforcement Officers.

Section PM 302.10. Outside storage of household items, is added as a new subsection to read as follows:

Section 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, housewares, exercise equipment, plumbing fixtures, irrespective of age or condition.

Section PM 302.11. Outside storage of debris, is added as a new subsection to read as follows:

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

Section PM 302.11.1. Forest Stewardship Policy for fallen trees and branches. Fallen trees, tree limbs and branches shall not be considered rubbish or debris in incorporated areas which have adopted a forest stewardship program to return fallen trees, limbs and branches to organic matter and have the authority to enforce the program. This includes the Villages of Arden, Ardentown and Ardencroft in furtherance of their adopted forest stewardship program and pursuant to their authority under Chapter 125, Volume 56 Laws of Delaware.

Section PM 302.13. Dog or cat excrement, is added as a new subsection to read as follows:

Section PM 302.13. Dog or cat excrement. See Chapter 4.

Section PM 302.14. Prohibited animals in certain residential areas is added as a new subsection to read as follows:

Section 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, feed, shelter or harbor a horse, 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.

Section PM 302.14.1. Exception: Educational programs. 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, or 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 and must be

renewed annually. Participation in a pigeon club is only an affirmative defense for the keeping, sheltering or harboring of pigeons.

Section PM 302.15. Boats, is added as a new subsection to read as follows:

Section 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.

Section PM 302.15.1 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 and treated 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.

Section PM 302.16. Portable temporary storage units, is added as a new subsection to read as follows:

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 subject to section PM 302.16.1.

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 PM 302.17. Portable Toilets. The temporary use of self-contained toilets shall be allowed to provide bathroom facilities for special events, construction and/or rehabilitation projects, and/or interruption of sewer service for emergencies or planned upgrades or repairs. For purposes of this subsection, "temporary use" means any use of one or more self-contained portable toilets for a period of 10 calendar days or less. The long-term use of portable toilets shall not be allowed as permanent sanitary facilities for residential or nonresidential use, or as secondary sewer facilities on existing developed lots. For purposes of this subsection, "long-

term use" means any use of one or more self-contained portable toilets for a period of more than 10 consecutive calendar days.

SECTION PM 303. SWIMMING POOLS, SPAS, AND HOT TUBS

Section PM 303.1. Swimming pools, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 303.1. Swimming pools. Swimming pools whether aboveground 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.

Section 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.

Section 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.

SECTION PM 304. EXTERIOR STRUCTURE

Section PM 304.2.1. Fences, is amended by deleting the subsection in its entirety.

Section 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.

Section PM 304.14. Insect screens, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 304.14. Insect Screens. During the period from April 15th to October 15th, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with tightly fitting screens that are free of holes and tears and maintained in good condition. Every screen door used for insect control shall have a self-closing device in good working condition. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section PM 304.17. Guards for basement windows, is amended by deleting the subsection in its entirety and substituting the following:

Section 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 rodents and other pests.

Section PM 304.18. Building security, is amended by deleting the subsection in its entirety.

Section PM 304.18.1. Doors, is amended by deleting the subsection in its entirety.

SECTION PM 305. INTERIOR STRUCTURE

Section PM 305.1.1. Exception, is added as a new exception to read as follows:

Section 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.

SECTION PM 308. RUBBISH AND GARBAGE

Section PM 308.1. Accumulation of rubbish or garbage, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 308.1. Accumulation of rubbish or garbage, All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Section PM 308.2, Disposal of rubbish, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 308.2, 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 308.2.1. Rubbish Storage Facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

Section PM 308.2.2, Refrigerators, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 308.2.2. Appliances, Doors and lids of refrigerators and other appliances must be removed or secured prior to disposal.

Section PM 308.3, Dumpsters, is added as a new section to read as follows:

Section PM 308.3, 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 308.3.1, The dumpster(s) shall be set back a minimum of three (3) feet from any property line; and

Section PM 308.3.2, 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 308.3.2.1, 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 308.3.2, the dumpster may be placed anywhere on the property.

Section PM 308.3.3, 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.

Section PM 308.4, Commercial business, is added as a new subsection to read as follows:

Section PM 308.4, Commercial business. Every owner, operator or occupant of a commercial business producing garbage or rubbish shall provide, and at all times cause to be utilized, approved leak proof 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 308.5, Food Establishments, is added as a new subsection to read as follows:

Section PM 308.5, 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 15th to October 15th. If such waste is removed more frequently than twice weekly, the seventy-two (72) hour interval shall not apply.

SECTION PM 309. EXTERMINATION

Section PM 309.1. Infestation, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 309.1. 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.

Section PM 309.2. Owner, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 309.2. 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.

Section PM 309.4. Multiple occupancy, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 309.4. 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.

Section PM 309.5. Occupant, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 309.5. 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

CHAPTER 5. PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION PM 504. PLUMBING SYSTEMS AND FIXTURES

Section PM 504.3. Plumbing systems hazards, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 504.3. Plumbing system 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 PM 507. DISCHARGE OF CLEAR WATER

Section PM 507. 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 single family detached, duplex or end unit of any other dwelling type, the point of discharge, may not be closer than 5 feet from the side and rear property lines or closer than 10 feet from a public sidewalk or, in the absence of a public sidewalk, from the edge of the curb or roadbed; and provided a minimum two (2) foot pervious surface is located between the point of discharge and any property line over which the clear water may flow; (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 stormwater 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 PM 602. HEATING FACILITIES

Section PM 602.3. Heat supply, is amended by deleting the subsection in its entirety and substituting the following:

Section 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 15th to April 15th 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.

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 degrees Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) shall be maintained.

Section PM 602.4. Occupiable work spaces, is amended by deleting the subsection in its entirety and substituting the following:

Section PM 602.4. Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 15th to April 15th to maintain a temperature of not less than sixty-five degrees Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) during the period the spaces are occupied.

SECTION PM 604. ELECTRICAL FACILITIES

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

Section PM 604.3. Electrical system hazard, is amended by deleting the subsection in its entirety and substituting the following:

Section 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.

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 doors, 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:

- a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
- b. In each room used for sleeping purposes.
- c. 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.

Section PM 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 PM 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 of this Code.

Section PM 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.

CHAPTER 8. REFERENCED STANDARDS

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

SCHEDULE OF CODE ENFORCEMENT FEES

Abatements

Administrative fee for abatement/vendor services \$150.00

Administrative

Extension to code directives

First extension No charge

Second extension 25.00

Third and subsequent extension 50.00

Re-inspection fee for failed inspections (applied to non-ticketable offenses after 2nd failed inspection) 50.00

Ticket (per violation) for the 1st occurrence 50.00

Ticket (per violation) for the 2nd occurrence 75.00

Tickets (per violation) for 3rd and subsequent occurrences 100.00

Appeals and Hearings

Administrative appeal - LIRB (Tickets only) 250.00

Administrative appeal - LIRB (Other) 500.00

Show Cause or Pre-deprivation Hearing Fee 300.00

Ticket appeal fee - hearing officer 20.00
(unsuccessful appeals only)

Recording Fees

Lien recording and satisfaction 60.00

(Ord. No. 04-057, § 1(Exh. A), 5-24-2005; Ord. No. 05-090, § 1, 9-13-2005; Ord. No. 05-127, § 1, 11-22-2005; Ord. No. 06-052, § 1, 5-23-2006; Ord. No. 06-054, §§ 1—4, 5-23-2006; Ord. No. 06-100, § 1, 8-22-2006; Ord. No. 07-014, §§ 1—4, 3-13-2007; Ord. No. 07-047, §§ 1, 2, 5-22-2007; Ord. No. 07-048, § 1, 5-22-2007; Ord. No. 07-091, § 1, 7-10-2007; Ord. No. 07-098, § 1, 7-24-2007; Ord. No. 07-100, § 13, 7-24-2007; Ord. No. 08-073, § 1, 6-24-2008; Ord. No. 09-056, §§ 1—3, 7-14-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 11-091, § 1, 9-27-2011; Ord. No. 12-006, §§ 1, 2, 1-24-2012; Ord. No. 12-011, § 1, 2-28-2012; Ord. No. 12-015, § 1, 2-28-2012; Ord. No. 12-084, § 1, 5-10-2016; Ord. No. 17-007, § 1, 2-14-2017; Ord. No. 18-031, § 15, 4-24-2018; Ord. No. 18-123, §§ 2—21, 12-11-2018)

ARTICLE 2. - REGISTRATION AND PAYMENT OF FEES FOR VACANT PREMISES

Sec. 7.02.001. - General.

A. *Purpose.* It is the intent of this Article to protect the public health, safety and welfare of the general public by imposing a registration requirement and fees on persons responsible for developed parcels that remain vacant for more than ninety (90) days. Vacant premises are more likely than occupied premises to be subject to property maintenance violations and illegal activity and to pose a greater burden on County resources including: code enforcement, fire and rescue, and police. The costs of the increased use of these resources should be borne by those creating the demand. It also is the intent of this Article to encourage the rehabilitation and occupancy of these premises.

B. *Existing remedies.* Nothing in this Article shall be construed to abolish or impair existing remedies of the County or its agencies relating to remediation of any dangerous, unsafe, or unsanitary conditions or enforcement of other Code provisions relating to these properties, including, without limitation, Article 1 of this Chapter ("Standards for Property Maintenance").

C. *Definitions.* The words, terms and phrases used in this Article shall have the definitions provided in Article 1 of this Chapter, or other chapters of the New Castle County Code if not defined in this Chapter, except that the following words, terms and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Active land development site means a site where a building permit or certificate of occupancy has been issued within the preceding one hundred twenty (120) days for the construction or occupancy of a new home on a lot depicted on a minor or major land development plan.

Building means that definition as provided in Chapter 40, Article 33 of the New Castle County Code.

Default with respect to a mortgage means that the obligor under the mortgage has breached or is in default of a repayment or other obligation in connection with that mortgage.

Department means the New Castle County Department of Land Use.

Occupied means any building wherein one or more persons actually conducts a lawful business in all or any part of the building as the licensed business-occupant or resides as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this Article, evidence offered to prove that a building is so occupied may include, but shall not be limited to: the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; absence of property maintenance violations; a valid business license; or the most recent federal or state income tax statements indicating that the subject property is the official business or residence address of the person(s) or business(es) claiming occupancy.

Property means any lot or parcel of land that has been assigned a tax parcel number by New Castle County.

Responsible party means either the property owner, mortgagee, executor, heir or attorney who is responsible for registering vacant premises.

Vacant premises means any building intended for residential or commercial use which is not currently occupied or in use wherein no person or persons actually, currently conduct a lawful business or lawfully reside or live in any part of the building as the legal or equitable owner(s) or tenant-occupant(s) or tenant(s) on a permanent, non-transient basis or that is unoccupied. Evidence offered to prove that a building is vacant may include, but shall not be limited to: accumulation of mail, advertising flyers, or other materials delivered to or posted upon the property or premises; disconnection of telephone, electric, gas, heating, water or sewer services; overdue sewer service charges or property taxes; one (1) or more property maintenance violations issued against the property address within one hundred twenty (120) days preceding the issuance of a violation notice finding vacancy; absence of vehicles on the property with current registrations; absence of evidence of occupancy upon visual inspection or upon information provided by proximate property owners or tenants of proximate property.

D. *Exceptions.* This Article shall not apply to:

1. Property or rights-of-way owned or controlled by a governmental entity.
2. Property within the jurisdiction of the Village of Arden.
3. A model home or a newly-constructed home that has not yet been occupied and that is located within an active land development site if:
 - a. The model home is actively used to market homes within that land development site; or
 - b. The newly constructed home is actively marketed for sale and available for purchase by a bona fide purchaser.

(Ord. No. 14-117 , § 1, 2-3-2015; Ord. No. 17-033 , § 1, 5-9-2017)

Sec. 7.02.002. - Registration requirement; registration statement.

A. *Registration.* The responsible party shall register each vacant premises as defined in Section 7.02.001 with the Department pursuant to the timeframes provided herein.

1. *Responsible party.* A property owner shall file, or cause to be filed, a registration statement for each vacant premises within ten (10) days of such premises being vacant for ninety (90) consecutive days.
2. *Mortgagee.* When a mortgagor has been determined to be in default of a mortgage by a mortgagee, the mortgagee shall determine whether such property is vacant. The mortgagee's duty to determine whether the premises become vacant shall continue as long as the

mortgagor remains in default. Within ten (10) days of the premises becoming vacant, the mortgagee shall file, or cause to be filed, a registration statement.

3. If multiple vacant premises exist on one (1) property, the responsible party may include all vacant premises on one (1) registration statement.

B. Registration statement. Registration shall be made on a form provided by the Department and shall include: the street address and tax parcel number of the vacant premises, the name(s) and address(es) of all owners, the type of business organization of the owner(s), and any other information deemed necessary. If the owner is an entity represented by an authorized agent, the name, mailing address, street address (if different from the mailing address), business phone number, facsimile number and email address of the registered agent, in addition to any other information deemed necessary by the Department, shall be required. Mortgagees shall also include the name and telephone number, facsimile number and email address for a direct contact with the mortgagee and the name and twenty-four (24) hour contact phone number for the property management company that will be responsible for the security and maintenance of the property.

C. Duty to amend. It is the duty of the responsible party to update the registration statement with the Department within thirty (30) days upon occurrence of a change in registration information during the course of any registration period. Failure to timely amend a registration statement shall be considered a violation and be subject to a ten dollar (\$10.00) per day penalty.

(Ord. No. 17-033 , § 1, 5-9-2017)

Editor's note— Ord. No. 17-033 , § 1, adopted May 9, 2017, amended Section 7.02.002 in its entirety to read as herein set out. Formerly, Section 7.02.002 pertained to registration statement, fees, exceptions and duty to amend registration statement, and derived from Ord. No. 14-117, § 1, adopted February 3, 2015, and Ord. No. 15-111, § 1, adopted December 8, 2015.

Sec. 7.02.003. - Annual registration renewal and registration fees; waiver of fees.

A. Annual registration and fees. On or about November 1st of each calendar year, the Department shall provide notice to all registrants that vacant premises registration statements must be renewed. The notice shall provide the applicable annual registration fee. The responsible party shall submit the applicable form and the non-refundable registration fee before January 1 of each calendar year.

1. Escalating fee schedule. The fee schedule reflects the inevitable increased social and economic costs associated with long-term vacancy and also is intended to encourage rehabilitation, use and occupancy of the premise. The annual fee for each vacant premises shall be based upon the term of continuous vacancy as follows:

a. Less than one (1) year: One hundred dollars (\$100.00).

- b. One (1) year and up to two (2) years: Five hundred dollars (\$500.00).
- c. Two (2) years and up to three (3) years: One thousand dollars (\$1,000.00).
- d. Three (3) years and up to five (5) years: Two thousand dollars (\$2,000.00).
- e. Five (4) years and up to ten (10) years: Three thousand five hundred dollars (\$3,500.00).
- f. Ten (10) years or greater: Five thousand dollars (\$5,000.00) plus an additional five hundred dollars (\$500.00) for each additional year over ten (10).

2. The term of vacancy will begin anew upon a change of registered owners unless the principals behind the new owners are the same as the former, with the title change in ownership an apparent attempt to avoid the fees, defeat the ends of justice, perpetuate a fraud, or otherwise evade the law.

B. *Waiver of registration fees.* A one-time waiver of the annual registration fees may be granted by the Code Official for good cause shown and subject to all of the following conditions:

- 1. All financial obligations associated with the vacant premises that are owed to the County are paid and current except for the registration fees that are subject to the waiver request.
- 2. There are no open zoning, building or property maintenance code violations on the property.
- 3. The owner is in the process of demolishing, rehabilitating or repairing the vacant premises; the owner is actively attempting to sell or lease the vacant premises; or the property is subject to a blight remediation or redevelopment program which the County or other legally designated housing authority has approved.

C. *Fee exemption.* Upon approval of the Code Official, a private, public, for-profit or non-profit organization that has been building, rehabilitating, and providing affordable housing units within the County or some other similar jurisdiction for at least five (5) years shall be exempt from the registration fee requirements of this Article.
(Ord. No. 17-033 , § 1, 5-9-2017)

Editor's note— Ord. No. 17-033 , § 1, adopted May 9, 2017, amended Section 7.02.003 in its entirety to read as herein set out. Formerly, Section 7.02.003 pertained to waiver of registration fee, and derived from Ord. No. 14-117, § 1, adopted February 3, 2015.

Sec. 7.02.004. - Failure to register; registration by Department.

A. *Failure to register.* Failure to timely register a vacant premises shall constitute a violation of this Article. Upon finding the responsible party has failed to register or renew a

registration, the Department shall issue a violation notice stating that the premises has been vacant for ninety (90) days or longer.

B. Violation notice. Such notice shall order the responsible party to register the vacant premises within ten (10) days from the date of issuance of the violation notice or be subject to the Department's registration of the vacant premises, plus fees and penalties. The violation notice shall provide an opportunity for the responsible party to be heard before an administrative hearing officer.

C. Administrative hearing. At the administrative hearing, the hearing officer shall determine whether sufficient evidence of vacancy has been established by the Department. The responsible party shall then be afforded the opportunity to provide objective proof of occupancy or demonstrate that the property is exempt from the provisions of this Article. If the hearing officer determines that the premises has been vacant and not registered by the responsible party in violation of this Article, a written decision shall be issued that contains a finding of vacancy and directing the responsible party to register the vacant property within ten (10) days and pay the administrative hearing fee. The decision shall also provide that a one thousand-dollar (\$1,000.00) administrative fee shall be added to the applicable registration fees if the responsible party fails to register the vacant property within ten (10) days.

D. Department registration. Upon expiration of the appeal period or any stay of the hearing officer's decision, if the responsible party fails to file a registration statement and pay applicable registration fees as ordered by the hearing officer, the Department shall register the vacant property. The Department shall charge the responsible party the applicable registration fee plus an additional one thousand dollars (\$1,000.00) administrative fee.

E. Notice. Except as otherwise provided in this Section, all notice and administrative enforcement procedures shall be as set forth in Article 1 of this Chapter.
(Ord. No. 17-033 , § 1, 5-9-2017)

Editor's note— Ord. No. 17-033 , § 1, adopted May 9, 2017, amended Section 7.02.004 in its entirety to read as herein set out. Formerly, Section 7.02.004 pertained to violations; fines; penalties; liens, and derived from Ord. No. 14-117, § 1, adopted February 3, 2015.

Sec. 7.02.005. - Appeal rights.

A responsible party has the right to appeal a finding of vacancy to the Board of License, Inspection and Review. The appeal to the Board of License, Inspection and Review shall be filed with the Department of Land Use within ten (10) days of the date the written decision is issued by the hearing officer.

(Ord. No. 14-117 , § 1, 2-3-2015; Ord. No. 17-033 , § 1, 5-9-2017)

Sec. 7.02.006. - Duty to maintain property.

In no instance shall registration of a vacant premises exonerate a responsible party from maintaining the property and complying with all New Castle County Code requirements. If a

vacant premises and the property on which it is located is not maintained pursuant to the provisions of the Code, fees and penalties may accrue and be charged against the property. (Ord. No. 17-033 , § 1, 5-9-2017)

Sec. 7.02.007. - Creation of lien for unpaid charges, fees and penalties.

Any unpaid charges, fees and penalties shall be considered a tax lien and collected in the same manner as other County real estate taxes. (Ord. No. 17-033 , § 1, 5-9-2017)