

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

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

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

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

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

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

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01-090 provided that provisions applying to property maintenance shall remain in full force and effect until otherwise repealed, and it is, therefore, the intent of this ordinance to repeal those provisions in Chapter 6 that were not repealed by the adoption of Substitute No. 1 to Ordinance 01-090;

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

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

*Chapter 6 was not repealed.*

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

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

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

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

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

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

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

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

No such action or prosecution, pending on the effective date of the revisions provided in this ordinance, for any offense committed or for the recovery of any penalty or forfeiture incurred under any of the ordinances, resolutions, rules and regulations revised herein

shall be abated or affected by such revisions, except that the proceedings in such action or prosecution shall conform with this ordinance if applicable.

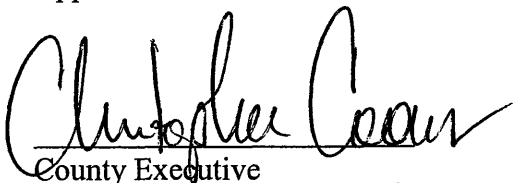
The provisions in this ordinance shall not be constructed to abolish or impair existing remedies New Castle County or its officers or agencies relating to the remediation of any dangerous, unsafe, or unsanitary condition.

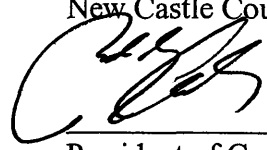
**Section 7. Severability.** It is hereby declared to be the intention of the County Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or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

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

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

Approved on:

  
County Executive  
6/7/05

Adopted by County Council of  
New Castle County on: 5/24/05  
  
President of County Council  
New Castle County

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

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

(EXHIBIT "A")

Chapter 7

**PROPERTY MAINTENANCE**

**Article 1. Standards For Property Maintenance**

- Sec. 7.01.001. Adoption of the International Property Maintenance Code.
- Sec. 7.01.002. Amendments to the International Property Maintenance Code.
  - Chapter 1. Administration
  - Chapter 2. Definitions
  - Chapter 3. General Requirements
  - Chapter 4. Light, Ventilation And Occupancy Limitations
  - Chapter 5. Plumbing Facilities And Fixture Requirements
  - Chapter 6. Mechanical And Electrical Requirements
  - Chapter 7. Fire Safety Requirements
  - Chapter 8. Referenced Standards

## ARTICLE 1. STANDARDS FOR PROPERTY MAINTENANCE

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

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

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

Certain sections and subsections of the *International Property Maintenance Code*, 2003 edition, adopted in §7.01.001, are hereby added, deleted, amended, changed and clarified as follows. Note: Although the *International Property Maintenance Code*, 2003 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 Code”.

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

*Section PM 101.1, Jurisdiction*, This Code shall regulate all housing and property maintenance on any property in New Castle County except in the incorporated areas of Wilmington, Middletown, Newark, New Castle, Elsmere, Townsend, Newport and Bellefonte where this Code shall apply only upon an official request from the municipality.

*Section PM 101.2, Scope*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 101.3, Intent*, is amended by deleting the subsection in its entirety and substituting the following:

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

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

*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 Code shall create any liability for loss or damage resulting from the failure of the County to perform any responsibility set forth in this Code or obligate the County to make any appropriation or expend any money not appropriated for any purpose set forth in this Code.

*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 Code or in any of the codes hereby adopted shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any causes of action acquired or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost impaired, or affected by this Code.

## 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 of the *New Castle County Code*. Nothing in this Code shall be construed to cancel, modify or set aside any provisions of Chapter 40 of the *New Castle County Code*.

*Section PM 102.4, Existing remedies,* is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 102.6, Historic buildings*, is amended by adding the following at the end of the paragraph: “Nothing contained in this Code shall be construed to override statutes, laws, ordinances, rules or regulations with respect to the architectural or design integrity of buildings which have been designated as historic structures or which have historical significance, provided that such structures are maintained in good condition and repair and are not a threat to the health, welfare, or safety of the occupants of the premises or the general public.”

*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 Code to the prescribed extent of each such reference. Where differences occur among this Code, and the referenced standards, the provisions of this Code shall prevail over the provisions of the International Codes, and the provisions of the International Codes shall prevail over any referenced standards.

*Section PM 102.9, Savings clause*, is added as a new subsection to read as follows:

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

## SECTION 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 104.1.1, No conflicts of interest*, is added as a new subsection to read as follows:

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

*Section PM 104.2, Rule-making authority*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 104.3, Inspections*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 104.4, Right of entry*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 104.7, Department records*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 104.9, Liability*, is added as a new subsection to read as follows:

*Section PM 104.9, 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 § 2.03.200 ("Indemnification of County Officers and Employees") of Chapter 2 of the *New Castle County Code*.

## 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 Code or shall fail to comply with any of the requirements hereof, shall be subject to any of the enforcement mechanisms and penalties outlined in this Section.

*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 Code may be subject to administrative proceedings instituted by the Code Enforcement Officer. Violations subject to administrative enforcement shall be commenced within three (3) years as provided in 10 *Del. C.* § 8106.

*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 Code or has reasonable ground



to believe that a violation has occurred, notice shall be given to the owner or persons responsible for the property. The person(s) noticed shall be responsible for correcting such violation(s).

*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 Code provision, where the same Code violation is alleged by the Code Official to exist, or (b) in the event that a Code violation exists, or is reasonably believed to exist, because work is being done in an unsafe or dangerous manner, jeopardizes the health, safety or welfare of the public, or is being done (or was done) in the absence of necessary permit(s), license(s) or registration(s).

*Section PM 106.3.1.2, Pre-deprivation show cause hearing*, If such violations are not remedied within the time specified, the Code Official shall schedule a Show Cause Hearing and provide the person an opportunity to defend his, her, or its conduct at a Show Cause Hearing prior to any penalty being imposed. After such Show Cause Hearing, the Code Official shall render a decision within twenty (20) days and send a written letter to the person informing them of his or her decision and detail the reasons for any adverse action taken. Any decision made by the Code Official is appealable pursuant to *Section PM 106.3.1.5*.

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

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

*Section PM 106.3.1.4.1, Administrative fines*, Notwithstanding any other section of this Code, any person who is found to have violated any provision of this Code or directive of the Code Official, may be subject to a two hundred (\$200.00) dollar penalty for each day that the violation continues in addition to any expense incurred by the County for the removal or abatement of the violation.

*Section PM 106.3.1.4.2, Institution of remedial action,* The County may initiate action to remedy the violation. Upon completion of such remedial work, the violator shall be provided the opportunity to reimburse the County 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. This Section shall not be construed to limit any other actions or remedies at law or equity.

*Section PM 106.3.1.5, Administrative appeal.*

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

*Section PM 106.3.1.5.2, 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 106.3.1.5.3, On record,* Appeals shall be heard based solely upon the materials (e.g., plans, documents, reports, studies, drawings, and testimony) available to the official or body rendering the initial decision. Appeals shall not be used to consider new or additional information. Information submitted but not discussed in rendering a decision shall be considered part of the original record and may be considered on appeal. Testimony may be given based upon the material submitted to the decision-maker.

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

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

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

*Section PM 106.3.1.5.7, Fee*, The fee for filing of an appeal under this Section is set forth in the Appendix of Chapter 6 of the *New Castle County Code* regarding Buildings and Structures.

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

*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 Code may avoid the same upon presenting sufficient evidence to establish that the alleged violation has been remedied. At the discretion of the County Attorney, or his or her designee, and if sufficient evidence is presented prior to trial, the County may enter a *nolle prosequi* with or without prejudice.

*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. 11 *Del .C. § 5917*.

*Section PM 106.3.2.3, Penalties*, Violations of this chapter shall be deemed to be misdemeanor offenses. The sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate: (a) For the first conviction, the penalty shall be a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). (b) For the second conviction for the same offense, the penalty shall be a fine of not less than two hundred and fifty (\$250.00), nor more than one thousand dollars (\$1,000.00).

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

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

*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 106.4, Abatement of violation*, The imposition of the penalties and remedies herein prescribed shall not preclude the County Attorney or his or her 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.

*Section PM 106.4.1, Reimbursement*, Upon completion of any action taken by the County to correct or abate a violation, the violator shall be provided the opportunity to reimburse the County for any costs incurred.

*Section PM 106.4.2, Remedies*, Upon failure to reimburse the County within the time period specified, the County may: (i) call or collect on any bond or insurance established for this purpose; (ii) place a lien 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 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 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 Code, or has reasonable grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in *Section PM 107.2* and *Section PM 107.3* to the owner or person responsible for the violation as specified in this Code. Notices for condemnation procedures shall also comply with *Section PM 108.3*.

*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 Code.

*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

*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 Code.” 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 Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public. All unfit structures shall be made fit and safe as deemed necessary by the Code Official and as provided for in this Code.

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

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

*Section PM 108.4, Placarding*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 108.5, Prohibited occupancy*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 108.6, Abatement*, is added as a new subsection to read as follows:

*Section PM 108.6, Abatement*, In addition to any other remedy, upon failure of the owner or person responsible to comply with the notice of violation within the time given, the Code Official is authorized to eliminate any unsafe or unfit 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 109. EMERGENCY MEASURES

*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 jurisdiction. The legal counsel of the jurisdiction may institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

*Section PM 109.6, Hearing,* is amended by deleting the subsection in entirety.

## SECTION PM 110. DEMOLITION

*Section PM 110.3, Failure to comply,* is amended by deleting the subsection in its entirety and substituting the following:

*Section PM 110.3, Failure to comply,* If the owner 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. VACANT STRUCTURES AND 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 Code generally, and in this Section specifically, so as not to endanger public health, safety, or welfare. This maintenance shall include, but not be limited to, the following:

*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 façade; 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 a vacant 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 vacant structure shall take corrective action to conform the structure and surrounding premises to the standards of this Section. If any vacant 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.

## **CHAPTER 2. DEFINITIONS**

### **SECTION PM 201. GENERAL**

*Section PM 201.3, Terms defined in other codes*, is amended 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 Code and are defined in the *International Building Code*, *International Fire Code*, Chapter 40 of the *New Castle County Code*, *International Plumbing Code*, *International Mechanical Code*, *International Existing Building Code* or other *ICC Electrical Code*, such terms shall have the meanings ascribed to them as in those Codes.

*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 Code, 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.

*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.

*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.

*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.

*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.

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

*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 façade or surface, or the alteration to such an extent that repair is not feasible or is so costly so as to be prohibitive, rendering the property unfit

for use. Demolition shall also include demolition by neglect as defined in Chapter 40 of the *New Castle County Code*.

*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 Special Services*, is added as a new definition to read as follows:

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

*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.

*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.

*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 of the *New Castle County Code*, or identified in the New Castle County Historic Sites working list contained in Appendix of Chapter 40 of the *New Castle County Code*.

*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*, Any person having control of the property.

*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, yard trimmings, cans, metals, mineral matter, glass, crockery and dust and other similar materials.

*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.

*Suitable Screening*, is added as a new definition to read as follows:

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

*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.

*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.

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

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

### **CHAPTER 3. GENERAL REQUIREMENTS**

#### **SECTION 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 Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping the premises which they occupy and control in a clean, sanitary and safe condition.

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

## SECTION PM 302. EXTERIOR PROPERTY AREAS

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

*Section PM 302. 4.2, Weeds and grass on developed parcels* shall be no more than eight (8) inches high; provided, however, with respect to a parcel of land that is larger 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, provided that such ornamental shrubs and trees are maintained in good order and condition; or (b) a wildflower meadow maintained and located no less than ten (10) feet from any property line.

*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 30<sup>th</sup>, if such parcel contains a population of environmentally invasive plants, identified in Appendix III of Chapter 40 of the *New Castle County Code*, significant enough in volume, number or size to cause harm to neighboring properties.

*Section PM 302. 4.6, Application to agricultural parcels,* This Section shall not apply to any parcel or portion thereof on which agricultural crops are being grown.

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

*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 Chapter 1 of Title 21 (Motor Vehicles) of the *Delaware Code* 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), 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 302.8.4, 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 a 0.5 opacity buffer (as defined by Chapter 40 of the *New Castle County Code*) is established along the property line(s) adjacent to the vehicle.

*Section PM 302.8.5, Recreational vehicle parking*, Subject to the following exceptions, it shall be unlawful to park or store a recreational vehicle in any residential zoning district, in any street, roadway, or public right-of-way, or in any street yard including within a driveway.

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

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

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

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

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

*Section PM 302.12, Responsibility to keep shrubs and trees trimmed*, is added as a new subsection to read as follows:

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

*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 of the *New Castle County Code*.

*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, shelter or harbor any



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) acre 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, 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.

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

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

*Section PM 302.15.2*, The storing of boats and boat trailers is prohibited in any street, roadway, or public right-of-way, or in any street yard including within a driveway.

*Section PM 302.15.3*, One (1) properly stored boat may be parked on a residential lot two (2) acres or larger when a 0.5 opacity buffer (as defined by Chapter 40 of the *New Castle County Code*) is established along all property line(s) adjacent to the vehicle.

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

## 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 303.2, Enclosures*, is amended by deleting the subsection in its entirety and substituting the following:

*Section PM 303.2, Enclosures*. Swimming pools, hot tubs and spas, more than twenty-four (24) inches in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches in height. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than fifty-four (54) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

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

## SECTION PM 304. EXTERIOR STRUCTURE

*Section PM 304.2.1 Fences*, is added as a new subsection to read as follows.

*Section PM 304.2.1 Fence*, When one side of a fence is not finished, and the other side is finished, the fence shall be erected such that the finished side faces the adjoining property.

*Section PM 304.13.2, Openable windows*, is amended by deleting the subsection in its entirety and substituting the following:

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

*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 15<sup>th</sup> to October 15<sup>th</sup>, every window required for ventilation of habitable rooms shall be supplied with tightly fitting screens of not less than (sixteen) 16 mesh per inch.

*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 307. RUBBISH AND GARBAGE

*Section PM 307.1, Accumulation of rubbish or garbage*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 307.2, Disposal of rubbish*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 307.2.2, Refrigerators*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 307.4, Commercial business*, is added as a new subsection to read as follows:

*Section PM 307.4, Commercial business*, Every owner, operator or occupant of a commercial business producing garbage 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.

#### SECTION PM 308. EXTERMINATION

*Section PM 308.1, Infestation*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 308.2, Owner*, is amended by deleting the subsection in its entirety and substituting the following:

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

*Section PM 308.4, Multiple occupancy*, is amended by deleting the subsection in its entirety and substituting the following:

*Section PM 308.4, Multiple occupancy*, The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination of the interior areas of the structure and exterior property.

*Section PM 308.5, Occupant*, is amended by deleting the subsection in its entirety and substituting the following:

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

#### CHAPTER 4. LIGHT, VENTILATION, AND OCCUPANCY LIMITATIONS

#### 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. STORM DRAINAGE

*Section PM 507, Storm Drainage*, is amended by deleting the section in its entirety.

## **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 15<sup>th</sup> to April 15<sup>th</sup> to maintain a temperature of not less than sixty-eight degree Fahrenheit (68°F) (twenty degrees Celsius (20°C)) in all habitable rooms, bathrooms, and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section.

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

*Section PM 602.4, Occupiable work spaces*, 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 15<sup>th</sup> to April 15<sup>th</sup> to maintain a temperature of not less than sixty-five degree Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) during the period the spaces are occupied.

### **SECTION PM 604. ELECTRICAL FACILITIES**

*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**

Chapter 7, Fire Safety Requirements, is amended by deleting the Chapter in its entirety. Pursuant to Chapter 66, Title 16 of the *Delaware Code*, the Office of the State Fire Marshal shall promulgate regulations and enforce all laws pertaining to fire prevention and safety.

## **CHAPTER 8. REFERENCED STANDARDS**

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