

**Ordinance 2006-03**

**THE COMMISSIONERS OF BELLEFONTE**

**An ordinance providing for Building, Plumbing and Mechanical regulations for the Town of Bellefonte, Delaware by adopting the International Code Council regulations (“International Codes”) as amended by this Ordinance and repealing the ordinance “Rules and Regulations for Building and Plumbing” passed on May 16, 1941, and all amendments thereto, and Ordinance 59-2 (Expiration of Permits).**

**BE IT ORDAINED by the Commissioners of the Town of Bellefonte, Delaware, a majority thereof concurring after careful review, that the following Ordinance is adopted:**

**SECTION 1: GENERAL**

- A. Title: These regulations, including the International Codes herein adopted shall be known as the Bellefonte Building and Plumbing Ordinance, hereinafter referred to as this “Ordinance.”
- B. Purpose: This Ordinance shall be liberally construed to promote and safeguard the health, safety, and welfare of the public by establishing the minimum requirements and standards for the built environment in Bellefonte, Delaware (“Bellefonte”).
- C. Scope: The provisions of this Ordinance shall apply to the design, construction, quality of materials, workmanship, alteration, movement, enlargement replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of all premises, buildings, and structures. The specific scope of the technical codes herein adopted, including the International Building, Residential, Mechanical, Plumbing, Fuel and Gas, and Existing Building Codes, and the amendments to the International Code adopted by Bellefonte is as follows:
  - 1. Building: The provisions of the International Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

2. Residential: The provisions of the International Residential Code for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than five stories in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.
  3. Mechanical: The provisions of the International Mechanical Code shall apply to the design, installation, alteration, repair, maintenance, and replacement of mechanical systems, permanently installed and utilized to provide control of environmental conditions and related processes within buildings and structures, including equipment, appliances, fixtures, fittings, and appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy-related systems. The installation of fuel and gas distribution piping and equipment, fuel gas-fired appliances, and fuel gas-fired appliance venting systems shall be regulated by the International Fuel and Gas Code.
  4. Plumbing: The provisions of the International Plumbing Code shall apply to the installation, alterations, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewer system.
  5. Gas: The provisions of the International Fuel Gas Code shall apply to the installation of gas piping, gas appliances, and related accessories as covered in this Ordinance. These requirements apply to gas piping systems extending from the point of delivery to the inlet connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.
  6. Existing Building: The provisions of the International Existing Building Code shall apply to the repair, alteration, change of occupancy, addition, and relocation of existing buildings. A building or portion of a building that has not been previously issued a certificate of occupancy or used for its intended purpose shall comply with the provisions of the International Building Code for new construction.
- D. Appendices: Provisions in the appendices to the above referenced Codes shall not apply unless specifically adopted.
- E. Existing structures: The legal occupancy of any structure legally existing on the date of the adoption of this Ordinance shall be permitted to continue without change, except as is specifically covered under Bellefonte ordinances or as deemed necessary by the Building Inspector for the general safety and welfare of the occupants and the public.

- F. Conflict: Where, in any specific case, different sections of this Ordinance, specifically different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where there is a conflict between the Bellefonte Building and Planning Ordinance and any code or regulation promulgated by The State of Delaware, the most restrictive shall apply.
- G. No liability created: Nothing in this Ordinance shall create any liability for loss or damage resulting from the failure of Bellefonte to perform any responsibility set forth in this Ordinance, or obligate Bellefonte to make any appropriation or expenditure and money for any purpose set forth in this Ordinance.
- H. Referenced codes and standards: The International Codes and the standards referenced therein shall be considered part of the requirements of this Ordinance to the prescribed extent of each such reference. Where differences occur among this Ordinance, the International Codes, and the referenced standards, the provisions of this Ordinance shall prevail over the provisions of the International Codes, and the provisions of the International Codes shall prevail over any referenced standards.
- I. Matters not provided: Any requirements that are essential for the safety of an existing or proposed building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this Ordinance, shall be determined by the Building Inspector. The Building Inspector shall rely on language and intent of adopted International Codes when issuing orders and decisions under this Ordinance.

## SECTION 2: DUTIES AND POWERS OF THE BUILDING INSPECTOR

- A. Appointment: The Commissioners of Bellefonte shall appoint a person or persons to act as the Building Inspector for the purpose of issuing permits and inspecting and enforcing these regulations.
- B. Requirements: The person or persons appointed to act as Building Inspector should have an International Codes Council Certification or have a working knowledge of the International Codes and be able to successfully complete an International Code Council Certification course within one year of their appointment. All costs associated with the certification course will be paid by Bellefonte. This requirement may be waived for inspectors appointed prior to the adoption of this Ordinance.
- C. Term: The appointed Building Inspector will serve at the pleasure of the Commissioners of Bellefonte. The Building Inspector shall provide the

Commissioners of Bellefonte sixty days written notice prior to the Building Inspector's resignation.

- D. Identification: Bellefonte shall issue each Building Inspector an official Town of Bellefonte Building Inspector identification badge. The Building Inspector shall carry this identification when visiting structures or premises in the performance of duties under this Ordinance.
- E. Duties: The Building Inspector must develop working knowledge of all Bellefonte ordinances. The Building Inspector shall receive applications, review construction documentation and issue permits, inspect the premises for which permits have been issued, investigate Ordinance complaints, and enforce compliance with this Ordinance and all related Bellefonte ordinances.
- F. Records: The Building Inspector shall keep official records of applications received, permits and certificates issued, record of inspections, and notices and orders issued.
- G. Building Permit: The Building Inspector will complete the six part International Code Council Building Permit form or a substitute approved by the Commissioners of Bellefonte. Building permits will be assigned a permit number (BXXXX-Y) where "B" represents Building Permit, "XXXX" is the year the permit was issued, and "Y" represents the consecutive number of the permits issued in that year. Each new year, "Y" restarts at one (1). The six parts of the permit shall be handled as follows:
  - 1. File Copy: Within seven days of the issuance of any permit, the Building Inspector shall submit a file copy along with the permit fee payment to the Secretary of the Commissioners of Bellefonte. The Secretary will record the permit in the Permit Log, file the department file copy, and submit the payment to the Treasurer for deposit in the Town account.
  - 2. Field Copy: The Building Inspector shall record the results of all inspections on the Inspection Record on the reserve side of the Building Permit form. The Building Inspector shall retain this copy until Certificate of Occupancy is issued, or permit is withdrawn by applicant, or permit is revoked, or permit expires. The Building Inspector shall enter one final entry on the Inspection Record indicating the final disposition of the permit as: Certificate of Occupancy, Withdrawn, Revoked (state reason), or Expired. Within seven days of issuing the Certificate of Occupancy, permit revocation, permit withdrawal, or permit expiration, the Building Inspector shall attach the Field Copy to the application and construction plans and submit the documents to the Secretary of the Commissioners of Bellefonte. The Secretary will file the documents and update the permit status in the Permit Log.

3. Certificate of Occupancy: Upon completion of all work in accordance with this Ordinance as ascertained by final inspection by the Building Inspector, the Building Inspector will complete the Certificate Issued Date field and provide the Certificate of Occupancy to the owner of the property. If the permit is withdrawn, revoked, or expired, the Building Inspector shall mark this copy "Void" and attach it to the Field Copy.
  4. Applicant Copy: The Building Inspector shall provide the Applicant Copy to the applicant upon payment of the permit fees and issuance of the permit.
  5. Assessor's Copy: The Building Inspector will submit the Assessor's Copy to the Secretary of the Commissioners of Bellefonte when submitting the File Copy. The Secretary will retain the Assessor's Copy until the Certificate of Occupancy has been issued and the final documents are received from the Building Inspector. At such time, the Secretary will submit the Assessor's Copy to the Tax Assessor for initial assessment or possible reassessment of the property. The Building Inspector will notify the New Castle County Tax Assessor of the need for initial assessment or reassessment of the property.
  6. Job Weather Card: The Building Inspector shall provide the Job Weather Card to the applicant upon payment of the permit fees constituting permission to begin work. Applicant must post this Job Weather Card at the site so it is visible from the street.
- H. Plumbing Permit: The Building Inspector will complete the four part International Code Council Plumbing Permit form or a substitute approved by the Commissioners of Bellefonte. Plumbing permits will be assigned a permit number (PXXXX-Y) where "P" represents Plumbing Permit, "XXXX" is the year the permit was issued, and "Y" represents the consecutive number of the permits issued in that year. Each new year, "Y" restarts at one (1). The four parts of the permit shall be handled as follows:
1. Applicant Copy: The Building Inspector shall provide the Applicant Copy to the applicant upon payment of the permit fees and issuance of the permit.
  2. File and Treasurer Copies: Within seven days of the issuance of the permit, the Building Inspector shall submit the File Copy along with the permit fee payment to the Secretary of the Commissioners of Bellefonte. The Secretary will record the permit in the Permit Log, file the File Copy, and submit the Treasurer's Copy and payment to the Treasurer for deposit in the Town account.

3. Inspector's Copy: The Building Inspector shall record the results of all inspections on the Inspection Record on the reserve side of the Plumbing Permit form. The Building Inspector shall retain this copy until final inspection is complete, permit is withdrawn by applicant, permit is revoked, or permit expires. The Building Inspector shall enter one final entry on the Inspection Record indicating the final disposition of the permit as: Passed Final Inspection, Withdrawn, Revoked (state reason), or Expired. Within seven days of issuing the final inspection, permit revocation, permit withdrawal, or permit expiration, the Building Inspector attaches the Field Copy to the application and construction plans and submits the documents to the Secretary of the Commissioners of Bellefonte. The Secretary will file the documents and update the permit status in the Permit Log.
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- I. Mechanical Permit: The Building Inspector will complete the four part International Code Council Mechanical Permit form or a substitute approved by the Commissioners of Bellefonte. Mechanical permits will be assigned a permit number (MXXXX-Y) where "M" represents Mechanical Permit, "XXXX" is the year the permit was issued, and "Y" represents the consecutive number of the permits issued in that year. Each new year, "Y" restarts at one (1). The four parts of the permit shall be handled as follows:
    1. Applicant Copy: The Building Inspector shall provide the Applicant Copy to the applicant upon payment of the permit fees and issuance of the permit.
    2. File and Treasurer Copies: Within seven days of the issuance of the permit, the Building Inspector shall submit the File Copy along with the permit fee payment to the Secretary of the Commissioners of Bellefonte. The Secretary will record the permit in the Permit Log, file the File Copy, and submit the Treasurer's Copy and payment to the Treasurer for deposit in the Town account.
    3. Inspector's Copy: The Building Inspector shall record the results of all inspections on the Inspection Record on the reserve side of the Mechanical Permit form. The Building Inspector shall retain this copy until final inspection is complete, permit is withdrawn by applicant, permit is revoked, or permit expires. The Building Inspector shall enter one final entry on the Inspection Record indicating the final disposition of the permit as: Passed Final Inspection, Withdrawn, Revoked (state reason), or Expired. Within seven days of issuing the final inspection, permit revocation, permit withdrawal, or permit expiration, the Building Inspector attaches the Field Copy to the application and construction plans and submits the documents to the Secretary of the Commissioners of Bellefonte. The Secretary will file the documents and update the permit status in the Permit Log.

- J. Reports: The Secretary shall provide the Commissioners of Bellefonte a monthly report from the Permit Log at the monthly Town meeting. This report shall itemize all activity on new and current permits. All active permits shall remain on the report until the final disposition is listed as complete, revoked, or expired and the corresponding records have been received by the Secretary of the Commissioners of Bellefonte.
- K. Payment: The Building Inspector shall receive for services, fifty percent (50%) of the permit and valuation fee collected by the Town. The Building Inspector shall receive payment only after the completed or expired permits are submitted to the Secretary of the Commissioners of Bellefonte and approved by the Commissioners. Failure to submit the necessary records to the Secretary or monthly report to the Commissioners will result in withholding of payment until said records or monthly report have been received by the Commissioners.
- L. Interpretation of the Ordinance: The Building Inspector shall have the authority to render interpretations of the adopted ordinances and adopt policies and procedures in compliance with the purposes of the Ordinance. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Ordinance.
- M. Restriction: Nothing in this Ordinance shall prohibit the Building Inspector from the furnishing of labor, materials or appliances for construction, alteration or maintenance of a building or structure that is owned or under the control of said person or providing contractual, volunteer or charity services to others. However, the Building Inspector may not perform inspections on a building or structure that is owned or under the control of said person, by his or her immediate family, or by a business entity in which the Building Inspector has a financial interest, or any building or structure for which he or she personally provided contractual, volunteer, or charity services.
- N. Disclosure of Work by Building Inspector or Other Town Official: Any Building Inspector or Town of Bellefonte Official (including, but not limited to, any paid employee of the Town or any Commissioner) that requires a permit, certificate of occupancy or use, inspection, or other service from the Building Inspector for a building or structure that is owned or under the control of said person or any business entity in which the Official has a financial interest where contractual, volunteer, or charity services shall be inspected by the Building Inspector and the official shall file a statement of disclosure with the Commissioners of Bellefonte. The disclosure shall state the address of the property and the nature of the work to avoid any appearance of impropriety.
- O. Right of Entry: When it is necessary to make an inspection to enforce the provisions of this Ordinance, or where the Building Inspector has reasonable cause to believe that there exists in a building, structure or upon a premises, a

condition which is contrary to or in violation of this Ordinance which makes the building, structure, or premises unsafe, dangerous, or hazardous, the Building Inspector is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Ordinance, provided that if such building, structure, or premises be occupied, that credentials be presented to the occupant and entry requested prior to entry. If such building, structure, or premises is unoccupied, the Building Inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Inspector shall have recourse to the remedies provided by law or equity to secure entry.

- P. **Liability:** The Building Inspector while acting for the Commissioners of Bellefonte in good faith and without malice in the discharge of the duties required by this Ordinance or other pertinent laws or ordinances, shall not thereby be rendered liable personally and is hereby relieved from the personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against a Building Inspector or other Town Official because of an act performed by that person in the lawful discharge of duties and under the provisions of this Ordinance shall be defended by Bellefonte's Attorney (or other suitable counsel as determined by the Commissioners) until the final termination of the proceedings. The Building Inspector or other Town Official shall not be liable for costs in any action, suit or proceedings that are instituted in pursuance of this Ordinance.
- Q. **Approved Materials and Equipment:** Materials, equipment and devices approved by the Building Inspector shall be constructed and installed in accordance with such approval. The use of used materials, which meet the requirements of this Ordinance, is permitted. The reuse of used materials and devices requires prior approval from the Building Inspector.
- R. **Modifications:** Wherever there are practical difficulties involved in carrying out the provisions of this Ordinance, the Building Inspector shall have the authority to grant modifications for individual cases, upon application of the owner or owners representative, provided the Building Inspector shall first find that reasons make the strict letter of this Ordinance impractical, the modification is in compliance with the intent and purpose of this Ordinance, and that such modification does not lessen health, accessibility, life and fire safety, public welfare, or structural requirements. The details of action granting modifications shall be recorded within the Building Inspector's records.
- S. **Alternative Materials, Design and Methods of Construction and Equipment:** The provisions of this Ordinance are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Ordinance, provided that such alternative has been approved. An alternative material, design, or method of construction may be approved



where the Building Inspector finds that the proposed design is satisfactory and complies with the intent of the provisions of this Ordinance, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Ordinance in quality, strength, effectiveness, fire resistance, durability and safety.

### SECTION 3: PERMITS

- A. Permits required, for any contractor, authorized representative or homeowner, who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, remove, convert or replace any gas, mechanical, or plumbing system, the installation of which is regulated by this Ordinance, shall first make application to the Building Inspector and obtain the required permit.
- B. Applications for permits for residential one- and two-family dwellings, residential accessory structures, additions, and renovations may be made by the owner of the dwelling, or his or her duly authorized agent, where the owner is acting as the building contractor or the owner intends to complete all work covered by the permit.
- C. Demolition permits may be issued to contractors or other qualified individuals.
- D. Work Exempt from Permit: Exemptions from permit requirements of this Ordinance shall not be deemed to grant authorization for any work to be done in any manner of the provisions of this Ordinance or any laws or Ordinances of this jurisdiction. Permits shall not be required for the following:
  - 1. Building and Residential:
    - a. One-story detached residential accessory structures used as tool and storage sheds, playhouses, and freestanding gazebos, provided the floor area does not exceed 200 square feet (18.58 m<sup>2</sup>).
    - b. Fences.
    - c. Retaining walls which are not over 4 feet (1,219 mm) in exposed height, unless supporting a surcharge or impounding Class I, II or III-A-liquids.
    - d. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,297 L) and the ratio of height to diameter or width does not exceed 2 to 1.
    - e. Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.
    - f. Painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work.

- g. Exterior siding or the replacement of roof covering that does not involve the repair or replacement of more than 25% of the sheathing.
  - h. Temporary motion picture, television, and theater stage sets and scenery.
  - i. Prefabricated swimming pools accessory to a one-or two family dwelling, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19,000 L) and are installed entirely above ground.
  - j. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
  - k. Swings and other playground equipment accessory to one- and two-family dwellings.
  - l. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
  - m. Movable cases, counters, and partitions not over 5 feet 9 inches (1,753 mm) in height.
2. Gas:
- a. Portable heating appliance.
  - b. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Mechanical:
- a. Portable heating appliance.
  - b. Portable ventilation equipment.
  - c. Portable cooling unit.
  - d. Steam, hot, or chilled water piping within any heating or cooling equipment regulated by this Ordinance.
  - e. Replacement of any parts which does not alter its approval or makes it unsafe.
  - f. Portable evaporative cooler.
  - g. Self-contained refrigeration system containing 10 pounds (4.45 kg) or less of refrigerant and actuated by motors of 1 horsepower (746W) or less.
4. Plumbing:
- a. The stopping of leaks in drains, water, soil, waste, or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste, or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such

work shall be considered as new work and a permit shall be obtained and inspection made as provided in this Ordinance.

- b. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.
  - c. Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next business day to the Building Inspector.
- E. Repairs: Application or notice to the Building Inspector is not required for ordinary repairs to structures. Such repairs shall not include the cutting away of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, mechanical or other work affecting public health.
- F. Application for Permit: To obtain a permit, the applicant shall first file application writing on a form furnished by the Building Inspector for that purpose. Such application shall include:
- 1. Identity and description of the work to be covered by the permit.
  - 2. Describe the property on which the proposed work is to be done by legal description that will readily identify and definitively locate the proposed building or work.
  - 3. Indicate the use for which the proposed work is intended.
  - 4. Be accompanied by construction documents, site plans and other information as required.
  - 5. State the valuation of the proposed work.
  - 6. Be signed by the applicant, or the applicant's authorized agent.
  - 7. Provide such other data and information as required by the Building Inspector including contractors licensing.
  - 8. Include all applicable permit and valuation fees payable to the Commissioners of Bellefonte.

- G. Action on Application: The Building Inspector shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements the Building Inspector shall reject such application. If the Building Inspector is satisfied that the proposed work conforms to the requirements of this Ordinance and laws and ordinances applicable thereto, the Building Inspector shall issue a permit as soon as practicable.
- H. Town Taxes shall be Paid: Any delinquent Town taxes shall be paid prior to obtaining a permit. The Building Inspector shall confirm with the tax collector that the property named or any parcel owned by the same landowner in the permit application is not delinquent in the payment of Town taxes. No permits shall be issued for any property or landowner that is delinquent in the payment of Town taxes.
- I. Other required approvals: The type and nature of each permit application will determine when construction plan approval certifications will be required from the following agencies: Delaware Department of Transportation (“DelDOT”), Delaware Department of Natural Resources and Environmental Control (“DNREC”), Delaware State Fire Marshal’s Office, The Energy Section of the Division Facilities Management in the State of Delaware Department of Administrative Services (“Energy Section”), and the Delaware State Board of Health.
1. DelDOT: Where a site is accessed from a State maintained roadway, any proposed construction or change in use of such access must be accompanied by an entrance/exit construction permit or waiver from DelDOT.
  2. DNREC and other agencies: Permits for both the construction of any private on-site sewage disposal system and well must be approved by DNREC. Construction altering effluent flow may require a permit or waiver. For properties that intend to connect to public sewer and/or water, a certification from the applicable agency or authority that available capacity exists and that the applicant has permission to connect to the available facilities and such certification must be received prior to the building permit being issued.
  3. State Fire Marshal’s Office: The State Fire Marshal’s Office shall issue approvals for all non-residential construction and all multi-family residential construction, and for any other structure as required by law.
  4. State Board of Health: Written approval is required from the State Board of Health for any facility where equipment is utilized to prepare food for public consumption and for public swimming pools.

5. Energy Code: Compliance with any applicable energy regulations shall be verified in writing pursuant to procedures for certification of compliance promulgated by the Energy Section of the Division of Facilities Management in the Delaware Department of Administrative Services.
- J. Pending Zoning Change: No permit shall be issued under this Ordinance for construction, alteration, removal, demolition, or other building operation upon land subject to an ordinance to change its zoning classification that has been introduced to the Commissioners or until the expiration of 180 days from the date the ordinance was introduced.
- K. Time Limit of Application: An application for a permit for any proposed work shall be deemed to have been abandoned 90 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued. The Building Inspector is authorized to grant extensions of time for additional periods not exceeding 90 days each. The extensions shall be requested in writing and only upon justifiable cause demonstrated.
- L. Validity of Permits: The issuance or granting of a permit cannot be construed to be a permit for, or an approval of, any violation of any of the provisions of this Ordinance or any other ordinance of Bellefonte. Permits presuming to give authority to violate or cancel the provisions of this Ordinance or other ordinances of the Commissioners of Bellefonte shall not be valid. The issuance of a permit on construction documents and other data shall not prevent the Building Inspector from requiring correction of the construction documents and other data. The Building Inspector is also authorized to prevent occupancy or use of a structure where the structure is in violation of this or any other ordinance passed by the Commissioners of Bellefonte.
- M. Expiration: Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days, abandoned for 180 days, or such permit is suspended.
- N. Timetable: All work described in the permit shall be completed and pass inspection within 2 years of the date of issuance for new construction, within 1 year for renovations and additions, or within 180 for all other permits.
- O. Extensions: Application for an extension of the time frames covered by this Ordinance must be made in writing to the Building Inspector. The applicant must demonstrate justifiable cause and explain all pertinent circumstances for the delays, plans for completion, and the appearance and safety of the structure. The Building Inspector is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days.

- P. Suspension or Revocation: The Building Inspector is authorized to suspend or revoke a permit issued under the provisions of this Ordinance wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any of the provisions of any Bellefonte ordinance.
- Q. Placement of permit: The permits or copy thereof shall be kept on the work site and conspicuously displayed at a visible location from the street until the completion of the project.

#### SECTION 4: FEES

- A. Payment of Fees: A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid. Invalid payments due to checks drawn on accounts with insufficient funds or stop payments issued will result in a Stop Work Order and additional fees.
- B. Schedule of Permit Fee: On building, structures, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required and in accordance with the Schedule of Permit Fees, which shall be adopted by the Commissioners of Bellefonte.
- C. Permit Valuations: The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued. If, in the opinion of the Building Inspector, the evaluation is underestimated on the application, the permit may be denied, unless the applicant can show detailed estimates to meet the approval of the Building Inspector. Final permit valuation shall be set by the Building Inspector.
- D. Work Commencing Before Permit Issuance: Any person who commences any work on a building, structure, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to administrative penalties and fees established by the Building Inspector in addition to the required permit fees.
- E. Related Fees: The payment of the fee for the construction, alteration, removal, or demolition for work done in connection with or concurrently with the work authorized by a permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.
- F. Refunds: Limited refunds of permit fees will be considered by the Building Inspector when the permit application is withdrawn prior to the final processing or when a written request is submitted within 90 days after the permit has been issued. Fees for services rendered, such as costs incurred by the Building Inspector for plan reviews completed by design professionals, shall not be refunded to the applicant.

## SECTION 5: CONSTRUCTION DOCUMENTS

- A. Submittal Documents: Construction documents, special inspection and structural observation programs, investigation and evaluation reports, and other data shall be submitted in 3 sets with each application for a permit. The construction documents should generally be prepared by a registered design professional licensed in the State of Delaware. Where special conditions exist, the Building Inspector is authorized to require additional construction documents to be prepared by a registered design professional at applicant's expense.

### Exceptions:

1. The Building Inspector is authorized to waive the submission of construction documents and other data if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this Ordinance.
  2. The Building Inspector may accept the submission of construction documents that are not prepared by a registered design professional for non-structural alterations to non-rental residential properties.
- B. Information on Construction Documents: Construction documents shall be dimensioned and drawn upon suitable material. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this Ordinance and relevant laws, ordinances, rules, and regulations, as determined by the Building Inspector. All construction documents shall be dated including the date of any and all revisions.
- C. Means of Egress: The construction documents shall show in sufficient detail the location, construction, size, and character of all portions of the means of egress in compliance with the provisions of this Ordinance. The construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.
- D. Exterior Wall Envelope: Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this Ordinance. The construction documents shall provide details of the exterior wall envelope, including windows, doors, flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water resistive membrane, and details around openings. The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the wind and the weather resistance of the exterior wall envelope. The supporting

documentation shall fully describe the exterior wall system that shall be tested, where applicable, as well as the test procedure used.

- E. Site Plan: The construction documents submitted with the application for permit shall be accompanied by three (3) sets of a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and any other information or data required by the Bellefonte drainage regulations or applicable State law or regulations relating to sediment and stormwater management control. The site plan shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Inspector is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted. All site plans shall be dated including the date of any and all revisions. A plot or mortgage survey plan bearing the seal of a Delaware registered land surveyor or professional engineer will be accepted to accommodate structures under 480 square feet, however applications for in-ground pools must be accompanied by a site plan regardless of pool size.
- F. Examination of Documents: The Building Inspector shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examination whether the construction indicated and described is in accordance with the requirements of this Ordinance and other pertinent laws or ordinances.
1. Approval of Construction Documents: When the Building Inspector issues a permit, the construction documents shall be approved, in writing, and dated. Two sets of the approved construction documents shall be returned to the applicant. One set of approved construction documents shall be kept at the site of work and shall be open to inspection by the Building Inspector or his or her authorized representative.
  2. Previous Approvals: This Ordinance shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith prior to the adoption of this Ordinance.
  3. Phased Approval: The Building Inspector is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this Ordinance. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with



the building operation and without assurance that a permit for the entire structure will be granted.

- G. Amended Construction Documents: Work shall be installed in accordance with the approved construction documents and any changes made during construction that are not in compliance with the approved construction documents shall be submitted and approved, prior to the next scheduled inspection, as an amended set of construction documents.
- H. Retention of Construction Documents: One set of approved construction documents shall be submitted by the Building Inspector to the Secretary of the Commissioners of Bellefonte along with application and permit field copy within seven days (7) of completion of work for retention.

#### SECTION 6: DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE

- A. General: When it is required that documents, including, but limited to, construction documents for new construction, change of occupancy, alteration, repairs, expansion, addition or modification for buildings or structures, be prepared by a registered design professional, the Building Inspector shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Inspector shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. All fees associated with having a registered design professional in charge shall be borne by the owner.
  - 1. Document Submittals:
    - a. All construction documents, plans, and specifications required for a building permit application shall be prepared by a design professional and bear that design professional's address, signature, seal, and date in accordance with the State of Delaware statues and regulations governing the professional registration and certification of design professionals.
    - b. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.
    - c. The registered design professional in responsible charge shall be responsible for ascertaining third parties who prepare construction

documents are professionally qualified pursuant to professional registration laws of the State and are performing duties only in their field of expertise.

2. Deferred Submittals: For the purposes of this Ordinance, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the Building Inspector within a specified period.
  - a. Deferral of any submittal items shall have the prior approval of the Building Inspector. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Building Inspector.
  - b. Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the Building Inspector with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Building Inspector.

#### SECTION 7: TEMPORARY STRUCTURES AND USES

- A. General: The Building Inspector is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 45 days. The Building Inspector is authorized to grant extensions for justifiable cause demonstrated.
- B. Conformance: Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation, and sanitary requirements of this Ordinance as necessary to ensure the public health, safety, and general welfare.
- C. Termination of Approval: The Building Inspector is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

#### SECTION 8: INSPECTIONS

- A. General: Construction, work, and materials shall be subject to inspection by the Building Inspector as required by the permit or directive of the Building Inspector and such construction, work and materials shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of any Bellefonte

ordinances or applicable law. Inspections presuming to give authority to violate or cancel the provisions of the Town of Bellefonte Ordinances shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Inspector nor Bellefonte shall be liable for expenses entailed in the removal or replacement of any material required to allow inspection.

- B. Preliminary Inspection: Before issuing a permit, the Building Inspector is authorized to examine or cause to be examined buildings, structures, and sites for which an application has been filed.
- C. Required Inspections: After issuing a building permit, the Building Inspector shall conduct inspections from time to time during and upon completion of the work for which a permit has been issued. The Building Inspector is authorized to make or require special inspections of any construction work to ascertain compliance with the provisions of this Ordinance and other laws that are enforced by the Town. The Building Inspector may require that a design professional inspect the work and prepare a report for submission to the Building Inspector. The cost of special inspections and inspection reports shall be the responsibility of the permit holder.
- D. Energy Efficiency Inspections: Compliance with any applicable energy regulations shall be verified pursuant to procedures for certification of compliance promulgated by the Energy Section of the Division of Facilities Management in the Delaware Department of Administrative Services.
- E. Inspection Requests: It shall be the duty of the holder of the permit or their duly authorized agent to notify the Building Inspector when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by this Ordinance or other applicable law.
- F. Approval Required: Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Inspector. The Building Inspector, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or agent of the permit holder wherein the same fails to comply with this Ordinance. Notification of failed inspections shall be in writing and the applicable Ordinance sections identified. Any portions that do not comply shall be corrected and such portions shall not be covered or concealed until re-inspected and authorized by the Building Inspector.
- G. Final Inspection: Upon completion of the building or structure, and before issuance of the certificate of occupancy, a final inspection shall be made. Failure to comply with approved plans shall result in additional inspection and review fees as set by the Commissioners of Bellefonte.

- H. Who is Eligible to Perform Inspections Required by the Town: All Bellefonte required inspections must be performed by the Building Inspector or his or her designee, an approved inspection agency, or an architect or engineer licensed by the State of Delaware. Employees of approved inspection agencies, architects, and engineers are independent contractors (herein referred to as third party inspectors).
1. Inspection Agencies: The Building Inspector is authorized to accept reports of approved inspection agencies, provided the Building Inspector, after sufficient investigation, determines that such agencies are qualified and reliable.
  2. Architects or Engineers: Licensed architects and engineers shall have the authority to conduct inspections on construction requiring a building permit.
- I. Regulations for third party inspectors:
1. Third party inspectors shall be responsible for inspecting the construction to make sure that the building or structure conforms to all applicable Ordinances passed by the Commissioners of Bellefonte and all other laws, rules, and regulations that apply to the construction, installation, and modification of buildings and structures and associated mechanical systems and plumbing. An inspection report, or other required inspection checklists, shall be prepared that indicate at the time of inspection, the construction, installation, or modification meets the minimum requirements of the applicable Codes for that phase of the project. Completed inspection reports and checklists for all required inspections must be approved by the Building Inspector before a certificate of occupancy will be issued.
  2. Third party inspectors shall notify the Building Inspector to provide the time and date of an inspection at least 24 hours in advance.
  3. Under no circumstance shall an inspection be made until a permit for such work is issued by the Building Inspector.
    - a. Any third party inspector who performs an inspection without first verifying that a valid permit has been issued for such work shall be subject to the penalty provisions of this Ordinance and shall demonstrate to the Building Inspector justifiable cause for such action before additional inspections may be made by said third party inspector.
    - b. All construction work observed by a third party inspector that he or she reasonably believes is being done without a permit, shall

immediately be reported to the Building Inspector. If the third party inspector fails to report work being done without a permit, the inspector shall be subject to the penalty provisions of this Ordinance and shall demonstrate to the Building Inspector justifiable cause for such action before additional inspections may be made by said third party inspector.

4. Third party inspectors shall maintain written records of all on-site inspections and shall forward the records to the Building Inspector within three (3) business days of completion. All reports and records must contain the seal of the architect or engineer. Employees of inspection agencies must affirm their work under penalty of perjury.

Exception: Any inspection results found to be in non-compliance with approved plans or a failure shall be reported immediately to the Building Inspector.

5. If a disagreement over any ordinance or law interpretation should occur between a third party inspector and a contractor, the Building Inspector shall be authorized to make a final decision in order to resolve said disagreement.
6. All third party inspectors are required to obtain the current edition of this Ordinance and all International Codes, as adopted by this Ordinance.
7. Registration and minimum surety and insurance requirements. The Building Inspector shall have the authority to adopt policies and procedures for registration of third party inspectors performing required inspections including minimum surety and insurance requirements.

## SECTION 9: CERTIFICATES OF OCCUPANCY

- A. Use and Occupancy: No building or structure shall be used or occupied, in whole or in part, and no change in the existing use or occupancy classification of a building or structure or portion thereof shall be made until the Building Inspector has issued a certificate of occupancy or use as provided herein. Issuance of a certificate of occupancy or use shall not be construed as an approval of a violation of the provisions of this Ordinance or any other provision of any ordinance adopted by the Commissioners of Bellefonte or applicable law.
- B. Change of Use: Changes in the use or occupancy of an existing structure shall not be made except as specified in the International Existing Building Code or as permitted by ordinances adopted by the Commissioners of Bellefonte. No certificate of occupancy or use shall be issued for any tenant or lease spaces in a new or renovated building until a determination is made that the building has been completed in accordance with the approved construction documents.

- C. Certificate Issued: Upon completion of the final inspection and correction of all outstanding violations and discrepancies of this Ordinance, the approved plans, the permits, or other provisions of any Bellefonte ordinances are corrected and all directives of the Building Inspector are satisfied, the Building Inspector shall issue a certificate of occupancy indicating the completion of the work for which the permit was issued. The certificate shall contain the following:
1. The certificate issue date.
  2. The building permit number.
  3. The tax identification number and address of the structure.
  4. The name and address of the owner.
  5. A description of that portion of the structure for which the certificate is issued.
  6. A statement that the described portion of the structure has been inspected for compliance with the requirements of this Ordinance for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
  7. The signature of the Building Inspector.
  8. Any special stipulations and conditions of the building permit.
- D. Temporary Occupancy: The Building Inspector is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The temporary certificate of occupancy shall be for a period of 30 days. Upon written request by an applicant, a temporary certificate of occupancy may be renewed for successive 30 day periods at the discretion of the Building Inspector. A fee as provided by the Commissioners of Bellefonte shall be paid by the applicant before such temporary certificate of occupancy is issued, or renewed. The issuance of a temporary certificate of occupancy is at the discretion of the Building Inspector.
- E. Revocation: The Building Inspector is authorized to, in writing, suspend or revoke a certificate of occupancy or use issued under the provisions of this Ordinance wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is in violation of the provisions of the Town of Bellefonte ordinances.

## SECTION 10: EMERGENCY MEASURES.

- A. Authority to Disconnect Service Utilities: The Building Inspector or his or her authorized designee shall have the authority to authorize disconnection of utility service to the building, structure, or system in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Inspector or his or her authorized designee shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure, or service system shall be notified as soon as practical thereafter.
- B. Imminent Danger: When, in the opinion of the Building Inspector or his or her authorized designee, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the Building Inspector or his or her authorized designee is hereby authorized and empowered to order and require the occupants to vacate the structure or building. The Building Inspector or his or her authorized designee shall cause to be posted at each entrance to such structure a notice declaring the building unsafe for human occupancy. It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or demolishing the same.
- C. Temporary Safeguards: When there is imminent danger due to an unsafe condition, the Building Inspector or his or her authorized designee shall cause the necessary work to be done to render such structure temporarily safe, whether or not any legal proceedings have been instituted. When necessary for public safety, the Building Inspector or his or her authorized designee shall take appropriate measures to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being used.
- D. Emergency Repairs: For the purpose of this section, the Building Inspector or his or her authorized designee shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Costs incurred in the performance of emergency work shall be the responsibility of the property owner or person in charge of the building or structure.
- E. Unsafe Equipment: Equipment deemed unsafe by the Building Inspector shall not be operated after the date stated in the notice unless the required repairs or changes have been made and the equipment has been approved, or unless an extension of time has been secured from the Building Inspector in writing.
  - 1. Authority to Seal Equipment: In the case of an emergency, the Building Inspector shall have the authority to seal out of service immediately any unsafe device or equipment regulated by this Ordinance.

2. Unlawful to Remove Seal: Any device or equipment sealed out of service by the Building Inspector shall be plainly identified in an approved manner. The identification shall not be tampered with, defaced or removed except by the Building Inspector and shall indicate the reason for such sealing.

F. Procedure for Institution of Emergency Measures:

1. Notice: If an unsafe condition is found in a building, structure, or upon the premises (and where there is not an imminent danger whereby temporary safeguards or emergency repairs are immediately necessary), the Building Inspector shall serve on the owner, agent, or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements, or demolition necessary to render the building, structure, or premises safe and secure. Such notice shall require the persons thus notified to appear within no more than 10 days at a specified time and place, to show cause why the said building, structure, or premises should not be made safe and secure or be repaired, improved, or demolished as deemed necessary by the Building Inspector. Service under this section shall be complete when: (1) delivered personally to the person to whom the permit was issued, the owner, or the person responsible for the property; (ii) mailed by regular United States mail and addressed to the person to whom the permit was issued, the owner, or the person responsible for the property at their last known address; or (iii) posted in a conspicuous place on the property affected by such notice and followed by a mailed or faxed copy to the person to whom the permit was issued, the owner, or the person responsible for the property. After such show cause hearing is held by the Building Inspector, the Building Inspector shall issue a written decision within 20 days and inform the person or entity responsible for the property of his or her decision detailing the reasons for any adverse action taken against the person or entity, any fines imposed, and providing a reasonable time for the person or entity to perform the required repairs, improvements, or demolition.
2. Post-deprivation Show Cause Hearing: If action is taken by the Building Inspector to rectify an imminent danger to institute temporary safeguards or institute emergency repairs, the Building Inspector shall serve notice of a show cause hearing and provide the owner or person responsible for the property with the reasons for the action. Service under this section shall be complete when: (1) delivered personally to the person to whom the permit was issued, the owner, or the person responsible for the property; (ii) mailed by regular United States mail and addressed to the person to whom the permit was issued, the owner, or the person responsible for the property at their last known address; or (iii) posted in a conspicuous place



on the property affected by such notice and followed by a mailed or faxed copy to the person to whom the permit was issued, the owner, or the person responsible for the property. The owner or person responsible for the property shall be provided an opportunity to defend his, her, or its conduct to mitigate liability for damage or costs incurred by the Town or its agents to remediate the violation or unsafe condition. After such show cause hearing, the Building Inspector may institute penalties in addition to costs previously incurred. The Building Inspector shall issue a written decision within 20 days of the hearing and inform the owner or person responsible for the property of his or her decision detailing the reasons for any adverse action taken against the person.

3. Costs: The owner of the property or person responsible for the building or structure shall be responsible for all costs associated with the enforcement of this Section 10 and the investigation, removal, remediation, or abatement of ordinance 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 attorneys' fees associated with the above, except as the Building Inspector holds after a show cause hearing that mitigation of expenses is required. If the violator fails to reimburse Bellefonte for charges incurred within the time period specified, Bellefonte may: (i) place a lien on any property within Bellefonte held by the person as permitted by State law; or (ii) institute a civil action for the recovery of such expense, together and with any penalty and/or interest, against the person, and Bellefonte shall be awarded reasonable attorney fees. This section shall not be construed to limit any other actions or remedies available to Bellefonte at law or equity.

#### SECTION 11: VIOLATIONS, ENFORCEMENT, AND PENALTIES

- A. Unlawful Acts: It shall be unlawful for any person to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure, or equipment regulated by this Ordinance, or cause same to be done, in conflict with or in violation of any of the provisions of this Ordinance, a permit, a certificate, an approved plan, or a directive of the Building Inspector. Any person who defaces or removes a violation notice, stop work order or any other notice posted on a building, structure, or equipment by the Building Inspector, shall also be considered to be in violation of this Ordinance.
- B. Enforcement: Any person who violates a provision of this Ordinance or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building, structure, or equipment in violation of the approved plan, permit, certificate, or directive of the Building Inspector, shall be subject to the penalty and enforcement provisions provided in this Ordinance.

- C. Criminal Enforcement: Any person violating the provisions of this Ordinance may be subject to a criminal proceeding instituted by the Commissioners of Bellefonte, the Building Inspector, or a 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. A violator may be fined in the amount of \$200.00 for each violation and \$100.00 for each violation every day the violation continues, or such other maximum amount as may be permitted by law. Each day that a continuing violation of any ordinance is maintained or permitted shall constitute a separate offense. All notices given prior to criminal enforcement shall comply with constitutional due process requirements.
1. Dismissal charges: Any person subject to criminal prosecution under this Ordinance may avoid the same upon presenting sufficient evidence to establish that the alleged violation has been remedied. In the discretion of the Town's Attorney and if sufficient evidence is presented prior to trial, the charges may be *nolle prosequi* with or without prejudice.
  2. Criminal proceedings: The Justice of the Peace Court of New Castle County shall have jurisdiction to hear, try, and finally determine any violation of this Ordinance. Only upon conviction shall the defendant have the right to appeal to the Court of Common Pleas.
- D. Civil enforcement: Any person violating the provisions of this Ordinance may be subject to a civil proceeding instituted by the Town of Bellefonte Attorney or imposition of administrative remedies.
1. Injunctive Relief: The Town Attorney may apply to the Court of Chancery for injunctive relief against the person or entity, to prevent, abate, or enjoin any continuing violation of the provisions of this Ordinance. The violator shall be responsible for any costs or expenses incurred (including attorneys' fees incurred by the Commissioners of Bellefonte or the Building Inspector) in preventing, abating, or enjoining such violations.
  2. Administrative Enforcement:
    - a. Notice of Violation: The Building Inspector is authorized to serve a notice or order on the person to whom the permit was issued, the owner, or the person responsible for the property, or such other person who is responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the any Bellefonte Ordinance, an approved plan, directive of the Building Inspector, or in violation of a permit or certificate issued under the provisions of this Ordinance. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. All notices shall: (i) be in writing; (ii) contain the address of the

property or a description of the property sufficient for identification; (iii) include the section of the Ordinance being violated; and (iv) include a correction order directing the person to remedy the code violation by such time as determined by the Building Inspector. If the owner, the person to whom the permit was issued, or the person or entity responsible for the property does not rectify the violation within the time specified in the notice, the Building Inspector may institute fines or other penalties as permitted by Section 12 of this Ordinance.

- b. **Stop Work Order:** Whenever the Building Inspector determines that work on any premises is being done at a time in which construction noise is prohibited, is being done in an unsafe or dangerous manner, jeopardizes the health, safety, or welfare of the public, is being done in the absence of a necessary approval, inspection, plan, permit, license, or registration, or when an owner, the person to whom the permit was issued, or the person or entity responsible for the property does not rectify the violation within the time specified in any violation notice, such work shall be immediately stopped by order of the Building Inspector. The stop work order shall be in writing and shall be given to the person to whom the permit was issued, the owner, or the person or entity responsible for the property. Upon issuance of a stop work order, the cited work shall immediately cease. All stop work orders shall: (i) be in writing; (ii) contain the address of the property or a description of the property sufficient for identification; (iii) include a clear statement of the reason or reasons why the order is being issued; (iv) state the conditions under which work will be permitted to resume; and (v) be physically posted at upon the property. Any person who shall continue any work in or about the building or structure after having been served with a stop work order, except such work as that person has been directed to perform to remove a violation of an unsafe condition, shall be considered to be in violation of this Ordinance and the Building Inspector may institute a fine for the maximum amount permitted by Section 12(A) of this Ordinance. The Building Inspector may also seek have the Town Attorney seek injunctive relief as permitted by Section 11(D).
- c. **Violation Deemed to Continue:** A violation shall be deemed corrected when the Building Inspector issues letter of compliance.
- d. **Removal of Placard:** Any person who defaces or removes a violation notice, stop work order or any other notice posted on a building, structure, or equipment by the Building Inspector, shall be considered to be in violation of this Ordinance.

## SECTION 12: PENALTIES PROVISIONS

The Building Inspector may impose the following administrative penalties:

- A. **Administrative Fines:** Notwithstanding any other section of this Ordinance, any person or entity who is found to have violated any provision of this Ordinance, permit, certificate, approved plan, or directive of the Building Inspector, in addition to any expense incurred by the Town of Bellefonte for the removal or abatement of such violation, will be assessed an administrative fine of up to \$500.00 for each day the violation continues. If the amount is not paid within such time stated, such amount, together with a penalty of 10% of expenses incurred and interest of 6% per annum shall be assessed against the land or improved premises. Bellefonte, at its discretion, may also: (i) place a lien on any property within the Town held by the person as permitted by State law; or (ii) institute a civil action for the recovery of such expense, together and with any penalty and/or interest, against the person, and Bellefonte shall be awarded reasonable attorney fees. This section shall not be construed to limit any other actions or remedies at law or equity.
- B. **Refusal to Issue any Further Building Permits, Inspections, and Certificates of Occupancy:** The Building Inspector may refuse to grant any further building permits, inspections, or certificates of occupancy to the violator, to any corporation, partnership, joint venture, or other legal entity with which the violator has a controlling interest, or to any business entity formed by the violator in an attempt to circumvent the effect of this penalty. The Building Inspector is authorized to withhold additional permits only until the permit, license, or certificate holder remedies outstanding violations and the applicable fines are paid.

## SECTION 13: ADMINISTRATIVE APPEAL

- A. An applicant aggrieved by the denial, refusal, suspension, or revocation of any permit, or by any administrative action taken pursuant to this Ordinance by the Building Inspector, or any person who in good faith claims that the true intent of this Ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Ordinance do not fully apply, or an equally good or better form of construction is proposed shall have the right to an appeal to the Board of Adjustment of the Town of Bellefonte.
- B. All appeals shall be filed with the Board of Adjustment within 20 days of the date the action giving rise to the appeal. A public hearing will then be afforded to the appellant within 45 days of the filing of the appeal.
- C. The Board of Adjustment shall make findings of fact and shall render a decision in writing based upon the record created at the public hearing within 20 days.

- D. No stay shall be granted of any action taken by the Building Inspector or his or her designee unless good cause is shown by the applicant and all applications for a stay over the objection of the Building Inspector will be heard by the Board of Adjustment. In the event administrative fines are imposed by the Building Inspector, the filing of appeal shall not stay or limit the accruing fines unless the decision of the Building Inspector is reversed or modified by the Board of Adjustment.
- E. The fee for the filing of an appeal under this section is set forth in the applicable ordinances establishing fees for appeal to the Board of Adjustment.
- F. An aggrieved party may appeal the Board of Adjustment's decision by filing a petition for a statutory writ of certiorari in the Delaware Superior Court.

SECTION 14. FEE SCHEDULES

**Schedule of Permit Fees**

**Building Permits:**

Valuation Fee:	For each \$1,000 valuation or fractional part thereof up to \$1,000,000	\$10.00
	For each additional \$1,000 valuation in excess of \$1,000,000	\$3.00
	Minimum valuation fee	\$50.00
	Professional design review, if necessary, additional	Cost of Review
Zoning Review:	10% of Valuation Fee	10% Valuation
	Minimum Zoning Fee	\$5.00
	Maximum Zoning Fee	\$100.00
Certificate of Occupancy Fee:		\$40.00

**Demolition Permit** \$50.00

**Mechanical or Plumbing Permit:**

For the first \$1,000 valuation or any part thereof	\$5.00
For each additional \$1,000 valuation or any part thereof	\$3.00
Minimum Fee	\$50.00
Hot water heater replacement permit	\$25.00

**Additional Plan Review:**

For each additional \$1,000 valuation in excess of original valuation	\$3.00
Minimum Fee	\$40.00

Professional design review, if necessary, additional	Cost of Review
<b>Change of Permit Record:</b>	
For each additional \$1,000 valuation in excess of original valuation	\$10.00
Minimum Fee	\$40.00
<b>Permit Extension Fee:</b>	\$40.00
<b>Re-Inspection Fee:</b>	
Each re-inspection after first inspection	\$30.00
<b>Refund Fee:</b>	
Pre-issuance of permit	\$10.00
Post-issuance of permit	50% of Fees
Professional design review costs deducted from refund	Cost of Review
<b>Administrative Appeal Fee:</b>	\$500.00
<b>Working without a permit:</b>	Permit fee plus additional fee equal to the permit fee
<b>Use or Occupancy without required certificate:</b>	\$500 per thirty (30) day period or any portion thereof
<b>Temporary Certificate of Occupancy:</b>	\$500 per thirty (30) day period or any portion thereof
<b>Temporary Certificate of Use:</b>	\$100 (any applicable site plan review fees additional)
<b>Checks returned for insufficient funds or stop payments</b>	Stop Work Order until permit fees plus a \$50 fee are satisfactorily paid

SECTION 15: SEVERABILITY

If any clause or provision of this Ordinance shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect.

FIRST READING: 8-14-06  
SECOND READING: 09-11-06

PASSED BY THE COMMISSIONERS: 09-11-06

\_\_\_ Dave Wishowski \_\_\_\_\_ President

\_\_\_ Scott L. MacKenzie \_\_\_\_\_ Secretary

[Original signed copy on file at Town Hall]