

New Castle County

Chapter 6

BUILDING CODE

Ordinance 01-090, Adopted 11/27/2001

Amended:

- Ord. No. 03-040 (Regulations for Mechanical Contractors), adopted 05/13/2003, effective 05/16/2003
- Ord. No. 04-045 (Construction and Demolition Waste), adopted 05/11/2004, effective 05/17/2004
- Ord. No. 04-062 (Multi-year Contractor Registration), adopted 06/8/2004, effective 06/16/2004
- Ord. No. 04-169 (2003 Code Adoption and Revisions), adopted 01/25/2005, effective 02/01/2005
- Ord. No. 05-048 (Schedule of Fees), adopted 05/10/2005, effective 07/01/2005
- Ord. No. 05-077 (Sanitary Sewer Contractors), adopted 07/26/2005, effective 08/08/2005
- Ord. No. 07-023 (Permit Fees), adopted 04/05/2007, effective 07/01/2007
- Ord. No. 07-088, as amended by floor amendment no. 1 (Contractor Licensing), adopted 7/24/07, effective 01/01/2008
- Ord. No. 07-116 (License Bonding), adopted 9/18/2007, effective 01/01/2008
- Ord. No. 08-048 (Licensing Requirements), adopted 05/27/2008, effective 06/06/2008
- Ord. No. 08-118 (2006 Code Adoption and Revisions), adopted 12/10/2008, effective 01/01/2009
- Ord. No. 09-057 (Schedule of Permit Fees), adopted 07/14/2009, effective 08/01/2009
- Ord. No. 15-010, Substitute No. 1 (2015 Code Adoption and Revisions), adopted 02/24/2015, effective 03/01/2015
- Ord. No. 17-029, (Historic Structures and Demolition Permits), adopted 04/25/2017, effective 05/01/2017
- Ord. No. 18-114, (2018 Code Adoption and Revisions), adopted 11/20/2018, effective 01/01/2019

This unofficial copy of Chapter 6 (Buildings & Structures) of the New Castle County Code was prepared by the Department of Land Use. Although the Official Code is maintained by New Castle County Council, this unofficial copy accurately reflects the County's building laws through the referenced date of this update. All references to this Chapter refer to NCC Chapter Six while references to this Code refer to NCC Code as a whole.

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ARTICLE I. GENERAL

Sec. 6.01.001. General.

A. *Title.* These regulations, including the International Codes herein adopted, shall be known as the New Castle County Building Code, hereinafter referred to as this “Chapter.”

B. *Purpose.* This Chapter shall apply to the unincorporated territory of New Castle County, Delaware, and may apply to incorporated municipalities if by appropriate action of its governing body, any such governing body elects to be included in its application. Such jurisdictions are defined in Appendix 6 of this Chapter.

C. *Scope.* The provisions of this Chapter shall apply to the design, construction, quality of materials, workmanship, alternation, movement, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of all premises, buildings, swimming pools, spas, systems and structures. The specific scope of the technical codes herein adopted and enforced, is as follows:

1. *Building.* The provisions of the International Building Code shall apply to the construction, alteration, movement, relocation, 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 townhouses not more than three (3) stories above grade plane in height with separate means of egress, and their accessory structures not more than (3) stories above grade plane in height, 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 townhouses not more than three (3) stories above grade plane in height with a separate means of egress and their accessory structures.
3. *Mechanical.* The provisions of the Statewide Heating, Ventilation, Air Conditioning, Refrigeration (HVACR) 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 gas distribution piping and equipment, fuel gas-fired appliances, and fuel gas-fired appliance venting systems shall be regulated by the Statewide Fuel Gas Code.
4. *Plumbing.* The provisions of the Statewide 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 Statewide Fuel Gas Code shall apply to the installation of gas piping, gas appliances, and related accessories as covered in this Chapter. 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 to, 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.

Exception: Detached one- and two-family dwellings and townhouses not more than three (3) stories above grade plan in height with a separate means of egress, and their accessory structures not more than three (3) stories above grade plan in height, shall comply with the International Residential Code.

7. *Energy Conservation.* The provisions of the Statewide Energy Conservation Code shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems.
8. *Swimming Pool and Spa.* The provisions of the International Swimming Pool and Spa Code shall apply to the construction, alteration, movement, renovation, replacement, repair and maintenance of aquatic recreation facilities, pools, and spas. The pools and spas covered by this Code are either permanent or temporary, and shall be only those that are designed and manufactured to be connected to a circulation system and that are intended for swimming, bathing, or wading.

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 existing on the date of adoption of this Chapter shall be permitted to continue without change, except as is specifically covered in this Chapter, the International Existing Building Code, the property maintenance code provisions, or other provision of this Code, or as is deemed necessary by the Code Official for the general safety and welfare of the occupants and the public.

F. *Moved pools and spas.* Except as determined by 6.01.001(E), systems that are a part of a pool, spa or system moved into or within the jurisdiction shall comply with the provisions of this Chapter for new installations.

G. *Conflict.* Where, in any specific case, different sections of this Chapter specify 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 New Castle County Building Code and any other code or regulation in and for New Castle County or the State of Delaware, the most restrictive shall apply.

H. *Other laws.* The provisions of the above reference codes shall not be deemed to nullify any provisions of local, state or federal law.

I. *Partial invalidity.* In the event that any part of provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

J. *No liability created.* Nothing in this Chapter shall create any liability for loss or damage resulting from the failure of the County to perform any responsibility set forth in this Chapter or obligate the County to make any appropriation or expend any money for any purpose set forth in this Chapter.

K. *Agricultural buildings and structures.* The provisions of this Chapter shall not apply to buildings or structures necessary to the operation of farm lands and property used exclusively for agricultural purposes as defined in the Delaware Code. Residential dwellings located on farm lands shall be subject to the provisions of this Chapter.

L. *Referenced codes and standards.* The International Codes and the standards referenced therein shall be considered part of the requirements of this Chapter to the prescribed extent of each such reference. Where differences occur among this Chapter 6, the International Codes adopted thereunder, and the referenced standards, the provisions of this Chapter shall prevail over the provisions of the adopted International Codes, and the provisions of the International Codes shall prevail over any referenced standards.

M. *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 Chapter, shall be determined by the Code Official. The Code Official shall rely on the language and intent of adopted International Codes when issuing orders and decisions under this Chapter.

N. *Chapter 6 Appendix.* An Appendix to this Chapter shall be maintained by the Department, and shall be amended from time to time as deemed necessary by the Department. Notice of any change to the Appendix shall be published in the Saturday News Journal at least thirty (30) days before such change is to be effective. The Department of Law shall be required to approve all legal forms and documents that appear in the Appendix and shall be responsible for updating and making any amendments thereto.

ARTICLE 2. DEFINITIONS

Sec. 6.02.001. Definitions.

The following words, terms, and phrases, when used in this Chapter shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means an individual or a person who is a principal of a business entity or otherwise authorized to act on behalf of the business entity.

Automatic door means a door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch.

Board of License, Inspection, and Review means the board of appeals that hears appeals from decisions of the Code Official.

Building Code Official means the Code Official as defined herein.

Building contractor means a person performing any construction activity which requires the issuance of a building permit, including, but not limited to, the demolition or construction of structures, including, but not limited to, the construction of pools, signs, or new homes, or any constructor participating in the Department of Community Services rehabilitation program.

Business entity means any business form that may be organized to operate a business including, but not limited to, corporation, partnership, limited partnership, association, or sole proprietorship. Business entity shall also mean an individual operating a business.

Certificate of awareness means a statement issued by the Department of Land Use setting forth that the work was completed prior to January 1, 2002 and is a recognized limited residential improvement by the Department.

Certificate of completion means a statement issued by the Department of Land Use setting forth that the permitted work has been completed and legally complies with the provisions of this Chapter.

Certificate of compliance means a statement issued by the Department of Land Use setting forth that an elevator legally complies with this Chapter.

Certificate of occupancy means a statement signed by the Department of Land Use setting forth that a building, structure, or use legally complies with this Chapter and Chapter 40 of this Code, and that the building, structure, or use may be used for the purposes stated therein.

Certificate of use means a certificate issued by the Department of Land Use authorizing a particular use or confirming a use of a building, structure, or property.

Code Enforcement Officer means any sworn Code Enforcement Constable within the New Castle County Office of Code Enforcement.

Code Official means the Department of Land Use employee designated by the General Manager who has the authority to administer and enforce this Chapter, or his or her duly authorized representative.

Construction and demolition waste means lumber, roofing material, sheathing, rubble, broken concrete, plaster and brick, conduit, pipe, wire, insulation and similar material which results from a construction process which shall include packaging materials and equipment used in the deliver or shipment of goods to or from the construction site.

Contractor license means the license required for all persons engaging in any aspect of construction activity as defined by Sector 23 of the current edition of the North American Industry Classification System (“NAICS”) Code, excluding those solely engaged in subdivision and land development (NAICS 237210), State of Delaware Master Electricians listed under electrical contractors (NAICS 238210), heavy utility construction in the Delaware Department of Transportation (DelDOT) right of way (NAICS 237110), Religious, Grantmaking, Civic, Professional, and similar Organizations (NAICS 813) who perform maintenance and repair work, that does not otherwise require a building permit, for no compensation, including, but no limited to, Habitat for Humanity, Good Work, and similar purposed organizations own-account maintenance and repair construction. Persons who have been issued contractor license(s) shall be referred to as licensed contractors. A contractor license is required for persons engaged in the following:

- A. Construction activity where a building, mechanical, or plumbing permit is required by this Chapter (such contractor licenses shall be further subject to a permit contractor endorsement so long as the requirements of this Chapter are met);
- B. Construction activity where no building, mechanical or plumbing permit is required; and/or
- C. Construction activity performed by subcontractors pursuant to a building, mechanical, or plumbing permit obtained by a person who has been issued a permit contractor endorsement.

County means New Castle County, Delaware.

County Attorney means the New Castle County Attorney and all Assistant County Attorneys appointed by the County Attorney.

Department or Department of Land Use means the New Castle County Department of Land Use.

Department of Public Works means the New Castle County Department of Public Works.

Design professional means an architect or engineer duly registered by the applicable State of Delaware professional association, and who, by reason of his or her special knowledge, experience, and education is qualified to practice in that particular area of expertise. A design professional shall only practice or engage in those areas in which he or she has adequate knowledge of the facts and competence in the subject matter. The Code Official shall have the authority to request that the design professional provide credentials indicating his or her knowledge, experience, and education.

Developed parcel means any improved parcel which has residential, office, commercial or manufacturing/industrial buildings located thereon.

General Manager means the New Castle County Department of Land Use General Manager.

Good standing means that at the time of the application, the above described individual or business entities are not delinquent in the payment of monies owed to the County or have been found to be in violation of the *New Castle County Code* after a show cause hearing or court proceeding.

Green building means a building certified by a green building rating system, when such system has been approved by the Code Official.

Green building rating system means an established and recognized green building rating system approved by the Code Official, including but not limited to:

- A. Green Globes sponsored by the Green Building Initiative (GBI);
- B. Leadership in Energy and Environmental Design (LEED) sponsored by U. S. Green Building Council;
- C. Model Green Home Building Guidelines sponsored by National Association of Home Builders (NAHB); and
- D. National Green Building Standard sponsored by International Code Council (ICC) and National Association of Home Builders (NAHB).

Letter of compliance means a letter issued by the Office of the Code Official signifying the correction of violations.

License period means that period of time in which a contractor is duly licensed with the County.

Licensing Division means the Licensing Division of the New Castle County Department of Land Use.

Limited contractor license means a person who has been issued a contractor license who is not in good standing or has otherwise had a contractor license revoked, denied or suspended. The limited contractor license shall be subject to any terms and conditions enumerated by the Code Official.

Limited residential improvement means attached and detached residential improvements to one- and two-family dwellings and townhouses not more than three (3) stories in height above grade. The improvement is limited to one story in height above grade and four hundred (400) square feet for additions. It shall include, but is not limited to finished basements, deck, sheds, carports, living areas, sunrooms and porches. It shall not include above grade or below grade swimming pools or other items deemed inappropriate by the Code Official.

Mechanical contractor means a person engaged in the erection, installation, enlargement, alteration, repair, removal, conversion, or replacement of a mechanical system. Each business entity operating as a mechanical contractor must have at least one licensed contractor employed with such business that has been issued a permit contractor endorsement.

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

New home means any dwelling unit not previously occupied, including newly built townhouses and newly built condominiums, excluding dwelling units constructed solely for lease.

New home builder means a building contractor engaged in general construction of new residential dwellings to be sold to the public, including condominiums.

Office of the Code Official means the New Castle County Department of Land Use, Division of Licensing.

Own-account maintenance and repair construction means maintenance and repair performed by a business entity, government or person for themselves rather than purchased from another business or person where:

- A. Such maintenance and repair work is being performed by the business entity, government or person or an employee of the business entity, government or person on a residence, building, structure or parcel owned or leased by that business entity, government or person; and
- B. Construction activity is not the primary activity of the business entity, government, or person; and
- C. Such maintenance and repair does not require a permit as defined by this Chapter.

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

Permit contractor endorsement means an endorsement on a contractor license issued to a building contractor, a mechanical contractor, a plumbing contractor, or a sanitary sewer contractor. Such contractors are subject to further education, experience, and/or testing requirements to demonstrate competency in a particular trade as required by this Chapter, 24 *Del. C.* ch. 18 (“Plumbing, HVAC and Refrigeration”) and/or 16 *Del. C.* ch. 79 (“Basic Plumbing Principles”) and are subject to minimum surety bond and insurance requirements. The licensed contractor who has been issued such a license shall be referred to as the permit contractor endorsement holder.

Person means an individual or business entity such as a firm, business, corporation, partnership, limited partnership, association, or any other group acting as a unit including, but not limited to, a contractor, developer, or owner.

Place of public accommodation means any establishment which caters to or offers goods or services or facilities to, or solicits patronage from, the general public. This definition includes state agencies, local government agencies, and state-funded agencies performing public functions. This definition shall apply to hotels and motels catering to the transient public, but it shall not apply to the sale or rental of houses, housing units, apartments, rooming houses, or other dwellings, not to tourist homes with less than ten (10) rental units catering to the transient public.

Plumbing contractor means a person engaged in the trade of installing pipes, fixtures, and other apparatus within or adjacent to any structure for bringing in the water supply and removing liquid and water-carried wastes and connection of these systems to any public or private sanitary sewer or private water supply systems. Plumbing contractor shall also mean a person engaged in the installation and connection of natural and liquid propane gas lines. Each business entity operating as a plumbing contractor must have at least one licensed contractor employed with such business that has been issued a permit contractor endorsement.

PMTAC means the Plumbing and Mechanical Technical Advisory Committee.

Property Maintenance Code means the current property maintenance code adopted and amended by New Castle County.

Sanitary sewer contractor means a person engaged in the trade of sewer and drain cleaning or installing a building sewer to a building drain or water service pipe to the water distribution system of the building.

Show cause hearing means an administrative hearing held by the Code Official where a person is afforded an opportunity to contest a violation and any penalty or action that has been asserted or will be asserted against such person.

Statewide Energy Conservation Code shall mean the International Energy Conservation Code published by the International Code Council as determined and adopted by the Delaware Energy Office, or its successor, for enforcement throughout the State of Delaware. The effective date of each version of the Statewide Energy Conservation Code shall be published in the Appendix to this Chapter.

Statewide Fuel Gas Code shall mean the International Fuel Gas Code published by the International Code Council as adopted and modified by the State Board of Plumbing, Heating, Air Conditioning, Ventilation and Refrigeration Examiners for enforcement throughout the State of Delaware.

Statewide HVACR Code shall mean the International Mechanical Code published by the International Code Council as adopted and modified by the State Board of Plumbing, Heating, Air Conditioning, Ventilation and Refrigeration Examiners for enforcement throughout the State of Delaware.

Statewide Plumbing Code shall mean the International Plumbing Code published by the International Code Council as adopted and modified by the Delaware Division of Public Health for enforcement throughout the State of Delaware.

Stop work order means a notice issued by the Code Official directing a person to immediately stop work on a building or structure.

Third party inspector means a business entity that provides County required inspections but whose employees are not employed by New Castle County.

Violation notice means a notice issued by the Code Official identifying noncompliance with this Chapter.

ARTICLE 3. ADMINISTRATION

Sec. 6.03.001. Requirements for a contractor license.

A. *Requirements for a contractor license.*

1. *Application.* Every business entity desiring to do business in New Castle County pursuant to this Chapter shall file an application with the Office of the Code Official.
 - a. The following information shall be provided on the application:
 - i. Applicant's name.
 - ii. The name, address, telephone number, and tax identification number of the business entity.
 - iii. The name, business address, home and mobile telephone number, and social security number or other satisfactory identification of each principal of the business.
 - iv. The names and addresses of any construction business that each principal operated during the last five (5) years, or that he or she currently operates.
 - v. Whether or not any principal of the business entity had a previous certificate of registration or contractor license denied, suspended, or revoked.
 - vi. Whether or not any principal has ever been convicted of a crime or offense relating to fraudulent or dishonest conduct or behavior in Delaware or any other state within the past five (5) years.
 - b. All information on the application is of a continuing nature. Any changes in the information on the application must be submitted in writing to the Office of the Code Official within ten (10) business days of such change. Failure to timely update information shall result in the automatic revocation of the contractor license.
2. *Fee.* Each application for a contractor license shall be accompanied by payment in the amount stated in the Appendix. The Department shall promulgate a policy regarding the expiration and renewal of contractor licenses that best balances fiscal responsibility with providing efficient licensing services.
3. *Business License.* Every contractor shall obtain a current State of Delaware business license. Permit contractor endorsement holders shall have a license in the category of resident contractor or non-resident contractor. The business license shall be kept current for the entire license period.
4. *Current copy of the adopted codes.* Each applicant must acknowledge that the applicant has obtained a current edition of this Chapter and any adopted International Code applicable to the applicant's trade.
5. *Good standing.* The applicant shall certify that the person currently seeking licensure, and any corporation, partnership, joint venture, or other legal entity involved in land use activity regulated by this Code, with which the applicant has a controlling interest (controlling interest means the acquisition of sufficient dominance to determine the operational and financial policies, including disposition of its assets, of any legal entity that is party listed above, but excluding mortgage holders), is in good standing.

6. *Verification.* The applicant must sign the application certifying that the contents of the application are true and correct to the best of his or her knowledge. Any person who falsifies any information on any application made with the Office of the Code Official shall be subject to criminal proceedings under Title 11, Chapter 5, Subchapter III, Subpart F of the Delaware Code, in addition to other remedies provided for in this Chapter.
 7. *Advertising.* All licensed contractors must prominently display the license type and number on service vehicles with no less than three-inch lettering. Only licensed plumbing contractors may use the words “plumber” or “plumbing” in any advertisement or business stationary.
- B. *Additional requirements for a licensed contractor to obtain a permit contractor endorsement.* Every business entity must be separately registered, bonded, and insured.
1. *Testing and licensure.* Each mechanical and plumbing contractor applicant must successfully complete any requirement stated in this Chapter, 24 *Del. C.* ch. 18 and/or 16 *Del. C.* ch. 79 indicating the applicant’s competence in that trade.
 2. *Surety bond.* All applicants shall deliver to New Castle County a surety bond naming the County as the beneficiary and the contractor’s business entity as the principal. The bond shall be issued by an A-rated surety company authorized to do business in the State of Delaware by the Delaware Insurance Department in accordance with the bond schedule set forth in the Appendix. The bond shall provide that the principal, and its surety or sureties, shall indemnify and hold harmless from any or all loss, damage, or expenses growing out of or in any way connected to the execution of work done under and by virtue of the authority contained in said license, including the negligence of the principal, its agents, and employees. The bond shall also cover any and all costs or expenses relating to the enforcement of this Chapter including the repair, replacement, or correction of any works undertaken by said contractor and shall cover any unpaid administrative fees and fines relating to violations of this Chapter. Proceeds from the surety bond will be limited to costs associated with the remediation of code violations and will not include costs associated with the remediation of any work non-compliant with the New Home Minimum Warranty Standards contained in the Appendix that do not amount to code violations. Bond proceeds may be used to purchase a new home warranty or the equivalent thereof where the registered builder fails to provide one in violation of this Chapter. The surety bond shall be kept current for the entire license period.
 3. *Insurance coverage requirements.* The applicant shall provide to the Office of the Code Official proof that the contractor’s business entity maintains insurance coverage for the entire license period. Any changes in the insurance information or coverage status must be submitted in writing to the Office of the Code Official within ten (10) business days of such change. Insurance coverage for bodily injury and property damage liability shall be in the following amounts:
 - a. Bodily injury liability with a minimum limit of two hundred fifty thousand dollars (\$250,000.00) for all damages arising out of personal injuries to or death of one person in any one occurrence, and, subject to that limit for each person, an aggregate limit of five hundred thousand dollars (\$500,000.00) for all damages arising out of personal injury to the death of two (2) or more persons in any one (1) occurrence; and
 - b. Property damage liability with a minimum limit of two hundred fifty thousand dollars (\$250,000.00) for all damages arising out of injury to, destruction of, or loss of use or property in any one occurrence.

C. *Limited contractor license.*

1. *Issuance.* The Code Official shall be authorized to issue a limited contractor license to an applicant whose contractor license or permit contractor endorsement has been suspended, revoked or denied or to an applicant who is otherwise not in good standing. This limited contractor license shall only be issued for the following purposes:
 - a. To allow a licensed contractor to secure to correct any and all areas of noncompliance that have been identified in a violation notice. After the expiration of any suspension period, and at such time all violations are brought into compliance with this Code and if no other outstanding violations exist, the applicant may apply for the re-issuance of a contractor license.
 - b. To allow a licensed contractor who is seeking the re-issuance of a permit contractor endorsement that has been suspended or revoked, or the issuance of a permit contractor endorsement that has been denied, to secure a limited number of permits and certificates of occupancy for a specific period of time as stated in the limited contractor license. After the expiration of any suspension period and at such time the work that has been in substantial compliance with this Code, the applicant may re-apply for a permit contractor endorsement.
2. *Conditions.* The limited contractor license shall identify any and all conditions that limit or restrict the applicant's authority under this Chapter. The restrictions may include a limitation on the number of permits that may be issued to the applicant, time frames in which work must be completed, expiration of the limited contractor license, submission of inspection reports, or any other conditions the Code Official deems necessary to protect the public's health safety and welfare.
3. *Application.* Each applicant for a limited contractor license shall meet all contractor license requirements except the applicant need not certify that such applicant is in good standing. However, if the applicant is not in good standing, the application shall state all areas of non-compliance and explain why such applicant is not in good standing.
4. *No rights created.* This section does not vest any applicant with the right to secure a limited contractor license. The limited contractor license shall be issued only in the sound discretion of the Code Official and only where there is no harm to the public's health, safety and welfare.
5. *Fee.* Each application for a limited contractor license shall be accompanied by payment in the amount stated in the Appendix.

D. *Permanent revocation or denial.* The Code Official shall deny or revoke a contractor license and limited contractor license to any applicant who has been convicted of a crime or offense relating to fraudulent or dishonest conduct within the past five (5) years, or as a licensed contractor or otherwise, in the practice of his or her profession, knowingly engaged in an act of consumer fraud or deception.

Sec. 6.03.002. Current contractor license.

A. Every business entity desiring to do business in New Castle County pursuant to this Chapter shall be issued a contractor license as a prerequisite to soliciting bids, bidding on, and/or engaging in any construction activity. The County's role in the issuance of a contractor license is limited to insuring all contractors are licensed and remedying violations of this Code. The County shall not be involved in remedying any civil or contractual complaints because such disputes are outside the County's jurisdiction.

B. Building contractors, mechanical contractors, plumbing contractors, and sanitary sewer contractors, in addition to a contractor license, shall have a current and valid permit contractor endorsement as a prerequisite to engaging in any construction activity, applying for and receiving inspections, permits, and certificates of occupancy or use. The contractor license shall be maintained for the entire period of any open permit.

Sec. 6.03.003. No lending of contractor licenses.

All licensed contractors shall be ultimately responsible for the work done. A licensed contractor shall not allow his or her contractor license endorsement to be used by any other person, or party, directly or indirectly, either for the purpose of obtaining permits or for doing work under his or her contractor license or permit contractor endorsement. Lending of a contractor license or permit contractor endorsement to do business without such licensed contractor's direct involvement is a violation of this Chapter.

Sec. 6.03.004. Unlicensed contractors.

A. It shall be a violation of this Chapter for any person to knowingly engage in the following conduct:

1. To permit a contractor not duly licensed with the County to bid or perform work that is subject to regulation under this Chapter; or
2. To perform work that requires a permit if the awarding authority lacks that applicable permit contractor endorsement.

B. Licensed contractors who violate this Section shall be subject to the following penalties:

1. For the first offense, violators shall be subject to a fine in the amount of five hundred dollars (\$500.00) and subject to administrative penalties and fees established by the Code Official and this Chapter.
2. For the second and subsequent offenses, violators shall be subject to administrative penalties and fees established in this Chapter and/or revocation of his or her contractor license or permit contractor endorsement for up to three (3) years.

C. Unlicensed contractors working in New Castle County shall be subject to prosecution to the fullest extent of the law. Unlicensed contractors shall have no redress to seek payment for any work completed that is subject to regulation under this Chapter.

Sec. 6.03.005. Severance of license holder from business entity.

Contractor license requirement. Any contractor license issued to a business entity shall become void upon the severance of the sole license holder from connection with such business. No further construction activity shall be performed by such business entity and, if applicable, no permits shall be issued or inspections performed unless the Code Official issues a new contractor license to person eligible to receive such a license. It is the responsibility of a license holder to notify the Office of the Code Official immediately upon any change of employment.

Sec. 6.03.006. Regulations for building contractors.

A. *New home warranty program.* A building contractor who engages in the general construction of new residential dwellings to be sold to the public, including condominiums, must present proof that he or she is a member of an approved new home warranty program. The building contractor shall supply the Office of the

Code Official with confirmation that the dwelling is enrolled in an approved warranty program and must provide the warranty for the dwelling to the new home buyer within thirty (30) days after the certificate of occupancy is issued. The County's role is limited to remedying code violations and will not include remediation of any violations of the new home minimum warranty standards.

1. All new home warranty programs shall be approved by the Code Official. To be approved, a new home warranty program shall:
 - a. Provide plan coverage that meets or exceeds protections afforded by the New Castle County new home warranty guidelines; and
 - b. The plan issuer shall be currently listed by the Department of Housing and Urban Development (HUD) as an accepted insured ten-year protection plan.

B. *Building contractor warranty exemption.* A new home warranty shall not be required on a residential dwelling that will be owned and maintained by the building contractor, or a business entity in which the building contractor or a principal of the building contractor has a controlling interest, and the residential dwelling is used as rental property.

1. The exemption application shall be approved by the Code Official prior to the issuance of a certificate of occupancy.
2. If sale occurs within ten (10) years after the certificate of occupancy is issued, the owner shall obtain a warranty adhering to the minimum warranty standards for the remaining time period under which a building contractor would have had to supply the minimum warranty requirements or obtain a signed affidavit from the subsequent buyer acknowledging that the residential dwelling is not warranted in accordance with New Castle County's minimum warranty standards.

C. *Owner/occupier warranty exemption.* The owner/occupier shall not be required to provide a new home warranty unless the residential dwelling is sold prior to the expiration of the new home warranty period. If sale occurs within ten (10) years after the certificate of occupancy is issued, the owner/occupier shall obtain a warranty adhering to the minimum warranty standards for the remaining time period under which a building contractor would have to supply the minimum warranty requirements or obtain a signed affidavit from the subsequent buyer acknowledging that the residential dwelling is not warranted in accordance with New Castle County's minimum warranty standards.

Sec. 6.03.007. Regulations for mechanical contractors.

A. *New Castle County license required.* Anyone involved in performing mechanical work in New Castle County must be licensed within that category.

B. *Requirements for mechanical contractor license.* Any applicant who desires to be licensed as a mechanical contractor must submit a copy of his or her State HVACR license issued by the State of Delaware, Division of Professional Regulation for the applicable category.

Sec. 6.03.008. Regulations for plumbing contractors.

A. *New Castle County license required.* Anyone involved in performing the work of plumbing in New Castle County must be licensed within that category.

B. *Requirements for plumbing contractor license.* Any applicant who desires to be licensed as a plumbing contractor must submit a copy of his or her State plumber's license issued by the State of Delaware, Division of Professional Regulation.

Sec. 6.03.009. Regulations for decorative appliance contractors.

A. *New Castle County license required.* Anyone involved in performing work in the area of decorative appliance installation and repair in New Castle County must be licensed within that category.

B. *Requirements for a decorative appliance contractor license.*

1. Each applicant for a decorative gas burning appliance license must present proof of certification through an approved program in gas burning hearth systems.
2. Each applicant for a decorative solid fuel burning appliance must present proof of certification through an approved program in solid fuel burning hearth systems.
3. Approved decorative appliance certification programs are as set forth in the Appendix. Upon a finding from PMTAC that a certification program is qualified and reliable, the Code Official may approve additional decorative appliance certification programs.

Sec. 6.03.010. Regulations for sanitary sewer contractors.

A. *Sewer and drain cleaner.* Any person desiring a contractor's license to work in the area of sewer and drain cleaning must satisfy the following requirements. Sewer and drain cleaning includes cleaning of sewer laterals, building drains, and interior drains. Replacement of drainage piping systems is prohibited.

1. *Required equipment.* Any applicant who desires to clean sewer laterals shall have appropriate sewer lateral and drain cleaning equipment, including but not limited to, rodding equipment capable of passing three-inch to six-inch cutter through a sewer lateral.
2. *Equipment approval letter.* Each applicant must have their equipment approved by the Sewer Maintenance Section of the Department of Public Works and provide a copy of the equipment approval letter to the Code Official. This requirement applies to applicants who do not have a letter on file with the Office of the Code Official.
3. *Re-inspection.* The Code Official or the General Manager of the Department of Public Works may require that such equipment be re-approved for any subsequent license period.

B. *Outside utility connector.* Any applicant desiring to engage in the business of installing building sewers to building drains or water service pipes to the water distribution systems of buildings or structures shall secure a contractor license.

1. *Conditions.* The contractor license shall be subject to the following conditions. An outside utility contractor shall not:
 - a. Perform repairs or replacements on existing building sewers or water service systems;
 - b. Work within the confines of a building or structure or perform plumbing work of any kind; or
 - c. Hold himself or herself out as a licensed plumber.

2. Violation of any condition set forth in subsection (B)(1) of this Section shall result in the revocation of the contractor license for a period of up to five (5) years subject to the reinstatement provisions of this Chapter.

Sec.06.03.011. Duties and powers of the Code Official.

A. *Responsibility for enforcement.* All rules and regulations described in this Chapter shall be enforced by the County Attorney, Office of the Code Official, or code enforcement constables except that the regulations for cleaning sewer laterals contained in this Chapter may be enforced by the General Manager of Department of Public Works or his designee, pursuant to Article 3, Chapter 38.

B. *Authority of the Code Official.* The Code Official shall have the authority to render interpretations of this Chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance with the intent and purpose of this Chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Chapter.

C. *Building and site inspectors.* The Code Official shall have the authority to appoint assistants, related technical officers, inspectors, plan examiners, and other employees. Such employees shall have powers as delegated by the Code Official.

D. *Applications and permits.* The Code Official shall receive applications, review construction documents, and issue permits for the erection, alteration, demolition, and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Chapter.

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

F. *Certifications.* The Code Official shall have the authority to require certifications from licensed contractors that certify that materials, installation and other applicable requirements of this Chapter comply with all *New Castle County Code* provisions.

G. *Inspections.* The Code Official, or his or her duly authorized representatives, shall make all of the required inspections, or the Code Official shall have the authority to accept reports of inspection by approved agencies or individuals. 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 to report upon unusual technical issues that arise.

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

I. *Right of Entry.* When it is necessary to make an inspection to enforce the provisions of this Chapter, or where the Code Official 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 Chapter which makes the building, structure, or premises unsafe, dangerous, or hazardous, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such building, structure, or premises be occupied that credentials be presented to the occupant and entry requested. If such building, structure, or premises be unoccupied, the Code Official shall first make a reasonable effort to locate the owner, the owner's authorized agent, or other person having charge or control of the structure or premises

and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

J. *Department records.* The Code Official shall keep official records of applications received, permits and certificates issued, reports of inspections, and notices and orders issued. Such records shall be retained in the Office of the Code Official for the period required for retention of public records.

K. *Liability.* The Code Official, member of the Board of License, Inspection, and Review or employee charged with the enforcement of this Chapter, while acting for New Castle County in good faith and without malice in the discharge of the duties required by this chapter or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally and is hereby relieved from 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 an officer or employee because of an act performed by that person in the lawful discharge of duties and under the provisions of this Chapter shall be defended by the County Attorney until the final termination of the proceedings. The Code Official or any subordinate shall not be liable for costs in any action, suit, criminal complaint, or proceeding that is instituted in pursuance of the provisions of this Chapter.

L. *Approved materials and equipment.* Materials, equipment, and devices approved by the Code Official shall be constructed and installed in accordance with such approval. The use of used materials which meet the requirements of this Chapter for new materials is permitted. Used equipment and devices shall not be reused unless approved by the Code Official.

M. *Modifications.* Wherever there are practical difficulties involved in carrying out the provisions of this Chapter, the Code Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Code Official shall first find that special individual reason makes the strict letter of this Chapter impractical, the modification is in compliance with the intent and purpose of this Chapter, 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 Office of the Code Official's files.

N. *Alternative materials, design, and methods of construction and equipment.* The provisions of this Chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Chapter, provided that any such alternative has been approved. The Code Official shall have the authority to approve an alternative material, design, or method of construction upon application of the owner or the owner's authorized agent. The Code Official shall first find that the proposed design is satisfactory and complies with the intent of the provisions of this Chapter, and that the material, method, or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this Chapter in quality, strength, effectiveness, fire resistance, durability and safety.

1. *Research reports.* Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research from approved sources.
2. *Tests.* Whenever there is insufficient evidence of compliance with the provisions of this Chapter, or evidence that a material or method does not conform to the requirements of this Chapter, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests as evidence of compliance to be made at no expense to New Castle County. Costs shall be the responsibility of the permit contractor endorsement holder. Test methods shall be as specified in this

Chapter or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall approve the testing procedures. Tests shall be performed by an agency approved by the Code Official. Reports of such tests shall be retained in the Office of the Code Official for the period required for the retention of public records.

Sec. 06.03.012. Permits.

A. *Required.* Any permit contractor endorsement holder, or owner in accordance with the exceptions below, who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy or use of a building, structure, swimming pool or spa, or parcel(s), or to erect, install, enlarge, alter, repair, remove, convert or replace any gas, mechanical, or plumbing system, the installation of which is regulated by this Chapter, shall first make application to the Code Official and obtain the required permit.

Exceptions:

1. *Owner-occupier residential accessory permit.* Applications for permits for residential accessory structures, additions, demolitions, and renovations may be made by the owner-occupier of the dwelling, that is not for sale nor any part for rent, where: (i) the owner is acting as the building contractor; or (ii) the owner intends to complete all work covered by the permit.
2. *Owner-occupier residential plumbing permit.* Any person who installs that person's own plumbing work, service, or equipment other than gas piping, in or about that person's own home and not for sale or any part for rent, shall not be required to be licensed as a licensed contractor pursuant to this section. Homeowners may install plumbing in their private dwellings by obtaining a homeowner's plumbing permit.
3. *Owner-occupier single-family dwelling permit.* A one-time exemption from the licensure requirements for an owner-occupier who acts as his or her own new home builder for the construction of the owner-occupier's single-family dwelling shall be permitted.
 - a. The Code Official must approve an application for such an exemption. The exemption application shall contain a certification that the owner-occupier will act as his or her own new home builder until the project is completed. If the Code Official determines that an owner-occupier is not acting completely as his or her own new home builder, the exemption granted under this section may be revoked.
 - b. Once this one-time exemption has been exercised, the Code Official shall have the authority to approve any further exemption applications.
4. *Demolition permits.* An owner or non-permit endorsed contractor may make application for demolition permit when the applicant intends to complete all work covered by the permit.

B. *Transfer of permit.* The Code Official shall have the authority to transfer a permit issued to a permit contractor endorsement holder to a different permit contractor endorsement holder or to the owner of the residential one-or-two family dwelling upon the permit holder's or property owner's written request. The permit shall be transferred to the owner of the dwelling only where the provisions of subsection 06.03.012(A) apply. The permit transfer shall not relieve the initial permit contractor endorsement holder from liability for work and materials performed by him or her prior to the permit transfer. Additionally, the new permit contractor

endorsement holder shall be liable for all work and materials covered under the permit. The permit transfer shall be subject to an administrative fee.

C. *Work exempt from permit.* Exemptions from permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Chapter or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. *Building, Residential and Swimming Pool and Spa.*

- a. One-story detached residential accessory structures used as tool and storage sheds, playhouses, free-standing gazebos and non-habitable similar uses, provided the floor area does not exceed two hundred square feet (18.58 m²) and with an eave height of 10 feet (3048 mm) or less. This exemption shall not apply to garages or structures capable of storing motor vehicles.
- b. Fences.
- c. Retaining walls which are not over four (4) feet (1219 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 five thousand (5,000) gallons (18,925 L) and the ratio of height to diameter or width does not exceed 2:1.
- e. Sidewalks and driveways.
- 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 twenty-five (25) percent of the sheathing. This exemption shall not apply to exterior masonry, adhered masonry veneer, or plaster (stucco) work.
- h. Temporary motion picture, television and theater stage sets and scenery.
- i. Shade cloth structures not exceeding 200 square feet or constructed for nursery or agricultural purposes, not including service systems.
- j. Swings and other playground equipment.
- k. Window awnings supported by an exterior wall which do not project more than fifty-four (54) inches (1372 mm) from the exterior wall and do not require additional support.
- l. Non-fixed and moveable fixtures, cases, racks, counters, and partitions not over five (5) feet nine (9) inches (1753 mm) in height.
- m. Decks not exceeding two hundred (200) square feet in area, that are not more than thirty (30) inches (762 mm) above grade at any point and are not adjacent to, or attached to, a one- or two-family dwelling.
- n. Patio and decorative hardscaping not more than thirty (30) inches above grade at any point.
- o. Flotation tank systems intended for sensory deprivation therapy.

- p. Temporary modular ramps, constructed of light-frame materials, serving a one- or two-family dwelling where the height of the entrance served by the ramp is not more than 30 inches (762 mm) above grade at any point. This exemption shall not apply to ramps constructed from wood products.
 - q. Replacement of windows and doors with others of the same size, and in the same location when the structural frame of the opening is not altered.
 - r. Steps not exceeding 30 inches above grade at any point and accessory to a one- or two-family dwelling.
2. *Gas:*
- a. Portable heating appliance.
 - b. Replacement of any minor component of an appliance or equipment that does not alter approval of such appliance or equipment or make such appliance or equipment unsafe.
 - c. Portable-fuel-cell appliances that are not connected to a fix piping system and are not interconnected to a power grid.
3. *Mechanical:*
- a. Portable heating appliance.
 - b. Portable ventilation appliances and equipment.
 - c. Portable cooling unit.
 - d. Steam, hot water or chilled water piping within any heating or cooling equipment or appliances regulated by this Chapter.
 - e. Replacement of any minor part that does not alter the approval or make such equipment or appliance unsafe.
 - f. Portable evaporative cooler.
 - g. Self-contained refrigeration systems that contain ten (10) pounds (4.45 kg) or less of refrigerant or that are actuated by motors of one horsepower (0.75 kW) or less.
 - h. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
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 Chapter.
 - b. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of an existing fixture in its present location provided such repairs does not involve or

require the replacement or rearrangement of valves, pipes, or fixtures. This exemption shall not apply to the installation or replacement of a water heater.

D. *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 Code Official.

E. *Repairs.* Application or notice to the Code Official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting 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 exterior foundation drain, standpipe, water supply, sewer, drainage, drain leader, gas, soil, water, vent or similar piping, mechanical, or other work affecting public health or general safety.

F. *Application for permit.* To obtain a permit, the applicant shall first file an application on a form furnished by the Office of the Code Official for that purpose. The Code Official shall be authorized to modify the application requirements to accommodate electronic submissions. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description that will readily identify and definitively locate the proposed buildings or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents, site plans, and other information as required herein.
5. State the valuation of the proposed work.
6. Be signed or authorized by the applicant, or the applicant's authorized agent.
7. Provide such other data and information as required by the Code Official.

G. *Action on application.* The Code Official shall examine or cause to be examined by Department staff or third party plan reviewer 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 of any applicable County, State or Federal laws or regulations, the Code Official shall reject such application. If the Code Official is satisfied that the proposed work conforms to the requirements of this Chapter and laws and ordinances applicable thereto, the Code Official shall issue a permit as soon as practicable.

H. *County taxes and sewer fees shall be paid prior to building permit application.* No building permit application shall be accepted or issued under the provisions of this Chapter until confirmation that the landowner seeking the permit, or the landowner for whose benefit the improvements are to be made under such permit, is not delinquent in the payment of County taxes or sewer fees on any tax parcel that such landowner owns in New Castle County. Only taxes that remain unpaid outside the grace period as provided in 9 Del. C. § 8604(a)(1) shall be considered delinquent. The confirmation, which the County Division of Finance shall provide at no cost upon application, is solely for the purpose of obtaining the desired permit and shall not act or be construed as a tax certification within the meaning of Section 14.01.002.

I. *Other required approvals.* Applicants must comply with all chapters of this Code, the type and nature of each permit application will determine when construction plan approval certifications will be required from the following agencies: New Castle County Planning division (NCCPD), Delaware Department of Transportation (DelDOT), Delaware Department of Natural Resources and Environmental Control (DNREC), Delaware State Fire Marshal's Office (DSFMO), the Delaware Health and Social Services Division of Public Health (DPH), and New Castle County Public Works (NCCPW).

1. *NCCPD.* Zoning review and approval will be required in accordance with Chapter 40 of this Code.
2. *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.

Exception: Residential construction in a subdivision for which there is an open road bond.

3. *DNREC.* 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.
4. *DSFMO.* Approvals for all non-residential construction and all multi-family residential construction shall be issued by the DSFMO.
5. *DPH.* Written approval is required from DPH for any facility where equipment is utilized to prepare food for public consumption and for public swimming pools.
6. *NCCPW.* Grease traps shall be located outside the building and easily accessible for inspection, cleaning, and maintenance. Written approval for all grease traps is required from the General Manager of the Department of Public Works, or his or her designee. All grease traps shall comply with the discharge restrictions delineated in Chapter 38 of this Code.

J. *Pending zoning change.* No permit shall be issued under this Chapter 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 County Council until County Council has voted on the ordinance or until the expiration of one hundred eighty (180) days from the date the ordinance was introduced by County Council, whichever occurs first. This Subsection, however, shall not prohibit the issuance of a permit in connection with a use or proposed use permitted in both the existing zoning classification and proposed zoning classification as set forth in such ordinance.

K. *Time limitation of application.* An application for a permit for any proposed work shall be deemed to have been abandoned ninety (90) days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Code Official is authorized to grant one or more extensions of time for additional periods not exceeding ninety (90) days each. The extensions shall be requested in writing and only upon justifiable cause demonstrated.

L. *Validity of permit.* The issuance of granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this Chapter or other ordinances of New Castle County shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Code Official from requiring the correction of errors in the construction documents and

other data. The Code Official is also authorized to prevent occupancy or use of a structure where in violation of this Code, approved plans, or directive of the Code Official.

M. *Expiration.* Every permit issued shall become invalid unless the work authorized by such permit is commenced and completed pursuant to the timetable below, or if the work authorized by such permit is suspended or abandoned for the period listed in the timetable below.

1. *Timetable.* All construction covered by the building permit shall be completed, pass inspection, and obtain the temporary or permanent certificate of occupancy within the time frames as follows:

Exceptions:

- a. HVAC, plumbing and sign permits associated with a building permit will follow the time frames identified in the building permit.
- b. If the person or persons responsible for the permit(s) manifest an intent to abandon the work covered by the permit(s), the permit(s) may be considered immediately abandoned. Evidence of intent to abandon shall include, but is not limited to: notice of going out of business, notice of bankruptcy, notice of intent not to perform the work covered by the permit and/or failure to attend properly noticed administrative or criminal proceedings. Once the Department is aware of intent to abandon the permit(s), the burden shall be on the persons responsible to rebut that evidence.

<i>Type of construction</i>	<i>Must start within</i>	<i>Must be completed within</i>	<i>Will be considered suspended or abandoned after</i>
Non-Residential New Construction	180 days	1 year	30 days
Non-Residential Additions	180 days	1 year	30 days
Non-Residential Tenant Fit-Outs	45 days	180 days	30 days
Signs and Pools	30 days	90 days	30 days
Residential New Construction	180 days	1 year	30 days
Residential Additions and Accessory Structures	45 days	1 year	30 days
Residential Decks	30 days	90 days	30 days
HVAC and Plumbing	30 days	90 days	30 days
Demolition	30 days	90 days	30 days

2. *Expired Permit Fine.* For the first offense and thereafter, violators shall be subject to a fine and to administrative penalties and fees established by the Code Official and this Chapter.

N. *Extensions.* Application for an extension of the time frame to complete work covered by the building permit may be made in writing to the Code Official. The Code Official is authorized to grant, in writing, one or more extensions of time, for periods not more than one hundred eighty (180) days each. The applicant must demonstrate justifiable cause and explain all pertinent surrounding circumstances including reasons for the delay, plans for completion, and the appearance and safety of the structure. The Code Official may set conditions

regarding the time to start and complete construction as well as any other conditions such as, but not limited to, those prescribed by a court of law or the Board of License, Inspection, and Review. A fee as set forth in the Schedule of Permit Fees shall be charged for each extension.

O. *Multiple expired permits.* If any permit contractor endorsement holder is determined to have in excess of five (5) expired permits at a given time, the Code Official may withhold additional permits until all expired permits have been satisfactorily addressed, any required inspections performed and be subject to administrative penalties and fees established by the Code Official and this Chapter.

P. *Suspension or revocation.* The Code Official is authorized to suspend or revoke a permit issued under the provisions of this Chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of Chapter 40 of this Code, or any of the provisions of this Chapter.

Q. *Placement of permit.* The building permit, or a copy thereof, shall be kept on the work site and conspicuously displayed at a location visible from the street until the completion of the project.

Sec. 06.03.013. Submittal documents

A. *General.* Submittal documents consisting of construction documents, statement of special inspections, structural observation programs, investigation and evaluation reports, and other data shall be submitted in three (3) sets with each application for a permit or in an electronic format as required by the Code Official. The construction documents shall be prepared by a registered design professional licensed in the State of Delaware. Where special conditions exist, the Code Official is authorized to require additional construction documents to be prepared by a registered design professional at applicant's expense.

Exceptions:

1. The Code Official 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 Chapter.
2. The Code Official may accept the submission of construction documents that are not prepared by a registered design professional for non-structural alterations and buildings of Group R-3.

B. *Construction documents.* Construction documents shall be in accordance with this Section.

1. *Information on construction documents.* Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the Code Official. 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 Chapter and relevant laws, ordinances, rules, and regulations, as determined by the Code Official. All construction documents shall be dated including the date of any and all revisions.

a. *Minimum design requirements for non-residential construction documents.* The construction documents for non-residential projects must include, but are not limited to:

1. *Code data*
 - i. Project name and address.
 - ii. Design professional name and contact number.
 - iii. Building code(s) and edition utilized.

- iv. Occupancy.
- v. Building/construction type.
- vi. If an automatic sprinkler system is provided and whether the sprinkler system is required.
- vii. The allowable and actual building height.
- viii. The allowable and actual building area.
- ix. Occupant load as defined in the International Building Code.
- x. The egress width required and provided.
- xi. The plumbing fixtures required and provided.

Any requirements that are not applicable to a specific project shall list the requirement and define as not applicable on the construction documents.

2. *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 Chapter. In other than occupancies in Groups R-2, R-3 and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

Exception: Construction documents are not required for Level 1 alterations of the International Existing Building Code.

3. *Exterior wall envelope.* Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this Chapter. 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.

- b. *Minimum design requirements for Residential documents.* The construction documents for any one- and two-family dwelling and all residential additions over four hundred eighty (480) square feet in size must include, but are not limited to:

1. Plans must be drawn to scale. Plans shall be no smaller than 24" x 18" and no larger than 48" x 30". The Code Official shall have the authority to reject plans based on size and/or legibility of the construction documents.
2. All braced wall lines, shall be identified on the construction documents and all pertinent information including, but not limited to, bracing methods, location and length of braced wall panels, foundation requirements of braced wall panels at top and bottom, and braced wall panel uplift load path design shall be provided.
3. *Exterior wall envelope.* Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this Chapter. 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.

- c. *Minimum design requirements for swimming pools.* Construction documents shall accurately show dimensions and construction of the pool and appurtenances and properly established distances to lot lines, buildings, walks and fences, as well as details of the water supply system, drainage and water disposal systems, and all appurtenances pertaining to the swimming pool. Detailed construction documents of structures, vertical elevations and sections through pool showing depth shall be included.
- d. *Minimum design requirements for non-residential Mechanical documents.* The Mechanical construction documents shall include, but are not limited to:
 1. Plans must be drawn to scale. Plans shall be no smaller than 24" X 18" and no larger than 48" x 30".
 2. For projects over 10,000 square feet, the construction documents shall bear the signature and seal of a Delaware registered design professional.
 3. Equipment schedules to include, but not limited to: listing of equipment, number of units, location of units and equipment capacity (B.T.U., KW, etc.).
 4. Information shall be provided on any clearance reduction methods in use.
 5. Ventilation schedule shall list amount of outside air (c.f.m.) supplied to each room or space, and indicate (c.f.m.) amounts at each duct/diffuser outlet.
 6. Outside air calculations for ventilation shall be included.
 7. Energy calculation worksheets.
 8. Outside air intakes shown on the layout.
 9. Duct construction details, including supports, hanger details, sheet metal thickness and information on flexible ducts or flexible duct connectors.
 10. Information on duct linings and insulating materials including flame spread and smoke development ratings.
 11. Exhaust fan ductwork layout and termination outside. This includes dryer and toilet room exhausts.
 12. Boiler and water heater equipment and piping details shall include, but not be limited to:
 - a. Safety controls.
 - b. Distribution piping layouts, indicating locations of backflow protection devices and provide listings of all backflow protection devices.
 - c. Gas and fuel oil piping layouts, materials, demand of gas appliances, sizes and locations of valves, indicating design pressures (high or low).
 - d. Locations of all fire and smoke dampers and access panels for fire dampers and/or equipment.
 - e. Boiler installations may require final inspections from the State of Delaware.
 13. Non-residential kitchen exhaust shall include, but not be limited to:
 - a. Equipment details, including hoods.

- b. Listings, clearances to combustibles, fan information, discharge location and duct work layout for intake and exhaust ducts.
 - c. Percentage of makeup air and general design calculations such as are velocity.
 - d. Locations, spacing or cleanouts, listing of cleanouts, pitch of horizontal ductwork, gauge of all metal used.
 - e. Details on chimney and chimney connector or vent connector details and connector gauges and clearances.
 - f. Mechanical refrigeration equipment data and details.
 - g. Solid fuel burning equipment details including fireplaces, wood ovens, and grills and equipment listings with manufactures' listings for all appliances.
- e. *Minimum design requirements for non-residential plumbing documents.* The plumbing construction documents shall include, but not limited to:
1. Plans must be drawn to scale. Plans shall be no smaller than 24" X 18" and no larger than 48" x 30".
 2. For projects over ten thousand (10,000) square feet, the construction documents shall bear the signature and seal of a Delaware registered design professional.
 3. Sewer and water service details shall be provided on civil plans.
 4. Exterior water meter settings based on the water purveyor standard details.
 5. Plumbing fixture schedule shall include the calculated occupant load used to determine the number of required plumbing fixtures.
 6. Plumbing plan layout shall include, but not be limited to:
 - a. Pitch of drainage lines.
 - b. Locations of cleanouts.
 - c. Size of traps.
 - d. Drainage fixture count (DFU) and complete riser diagrams.
 7. Water supply distribution plans and water riser diagrams shall include:
 - a. Pipe sizes.
 - b. Water demand calculations.
 - c. Water supply fixture counts.
 - d. Materials used and backflow protection devices, including listing of backflow protection devices.
 8. Water heater details and locations of relief valve drainage and thermal expansion tanks and defining if unit(s) are gas or electric.
 9. Venting information for all gas-fired equipment.
 10. Piping hangar support and spacing details.
 11. Storm drain details shall include, but not be limited to:
 - a. roof drain sizes
 - b. downspout/leader sizes
 - c. secondary (emergency) roof drains where the roof perimeter extends above the roof surface

- d. calculations
12. Grease/oil interceptors to include venting. Note: Grease traps shall be located outside the building and easily accessible for inspection, cleaning, and maintenance. All grease traps shall have a storage capacity of one thousand (1,000) gallons and each shall be an internally baffled tank constructed of concrete or fiberglass, unless otherwise approved or required by the General Manager of the Department of Public Works, or his or her designee. The applicant of such work shall provide written approval from the Department of Public Works. All grease traps shall comply with the discharge restrictions delineated in Chapter 38 of this Code.
 13. Kitchen equipment layout to include details on indirect or direct drainage. Indicate if discharge will be through an air gap or an air break.
 14. Dishwashing machines, autoclaves, and similar equipment to include details on wastewater discharge temperatures and if chemicals are used in the cleaning process. Note: The Code prohibits discharge temperatures on excess of one hundred 140 degrees F (sixty 60 degrees C).
 15. Floor drains, trap seal primers, and hub drains and waste receptors.
 16. All sinks and drains that will receive chemicals (including those found in lab or industrial occupancies). The Department of Public Works will require listings of all chemicals used and quantities discharged. Neutralizing devices to include manufactures' cut sheets. Certifications from the building owner/tenant relating to chemicals used and discharged may be requested.
 17. Note: Boiler installations may require final inspection from the State of Delaware.
 18. Note: It shall be unlawful for any person to connect condensate pump drainage, or drainage from any device directly or indirectly into any public or private sewer, except when such a connection has been specifically authorized in writing by the General Manager of Public Works. Exception: Heater condensate drains connected into the sanitary sewer system for slab-on-grade foundation or total crawl space dwellings. The connection of this drain shall be upstream of a trap to block the backflow of any sewer gases into the dwelling.
2. *Site plan.* The construction documents submitted with the application for permit shall be accompanied by three (3) sets of a site plan, or in an electronic format as required by the Code Official, 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 New Castle County Drainage Code and the Department's plan content check list. 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 Code Official 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. *No site plan needed for one-family dwellings erected on farm property.* The Department shall require a site inspection only to determine compliance with Sec. R401.3 of the International Residential Code for: (a) private property used for farm or agricultural purposes, as defined in the Delaware Code, upon which a one-family dwelling is to be erected for a member of the immediate family of the owner of the property; or (b) with respect to any subdivision, plat, or plan related to the operation or management of a farm and any other agricultural use.
 - b. 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 four hundred eighty (480) square feet, however, applications for in-ground pools must be accompanied by a site plan regardless of pool size.

- c. *Design flood elevations.* Where design flood elevations are not specified, they should be established in accordance with the International Building Code.
3. *Examination of documents.* The Code Official shall examine or cause to be examined by Department staff or third party plan reviewer the accompanying construction documents and shall ascertain by such examination whether the construction indicated and described is in accordance with the requirements of this Chapter and other pertinent laws or ordinances.
 - a. *Approval of construction documents.* When the Code Official issues a permit, the construction documents shall be approved, in writing, or by stamp, as “Approved New Castle County, Department of Land Use” and dated. 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 Code Official or his or her authorized representative.
 - b. *Previous approvals.* This Chapter 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 pursuant to the timetable contained in Sec. 6.03.012(M)(1).
 - c. *Phased approval.* The Code Official 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 Chapter. 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.
 4. *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.
 5. *Retention of construction documents.* One set of approved construction documents shall be retained by the Code Official for a period of not less than one hundred eighty (180) days from date of completion of the permitted work, or such other time required for the retention of public documents.

Sec. 6.03.014. Design professional in responsible charge.

A. *General.* When it is required that documents, including but not limited to construction documents for new construction, change of occupancy, alteration, repairs, expansion, addition or modification for buildings or structures, which involve the practice of architecture or engineering, as defined by the professional registration or licensing laws of the State of Delaware, be prepared by a registered design professional consistent with the professional registration or licensing laws of the State of Delaware, the Code Official 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 Code Official 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.

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 name, address and license or registration number and shall be signed, sealed and dated by the registered design professional in accordance with the State of Delaware statutes and regulations governing the professional registration, licensing, 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 Chapter, 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 Code Official within a specified period.

- a. Deferral of any submittal items shall have the prior approval of the Code Official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Code Official.
- 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 Code Official 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 Code Official.

Sec. 06.03.015. Temporary structures and uses.

- A. *General.* The Code Official 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 one hundred eighty (180) days or such other time permitted by Chapter 40 of this Code. The Code Official is authorized to grant extensions for demonstrated cause.
- 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 Chapter as necessary to ensure the public health, safety, and general welfare. All temporary uses shall comply with the provisions of Chapter 40 of this Code.
- C. *Termination of approval.* The Code Official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

Sec. 6.03.016. 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, have been paid.

B. *Schedule of permit fees.* On buildings, structures, swimming pools and spas, 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.

C. *Permit valuations.* The applicant for a permit shall provide an estimated permit value at time of application. The estimate shall be consistent with the standard valuation procedures and policies contained in the Appendix. 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 Code Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Code Official. Final building permit valuation shall be set by the Code Official.

D. *Work commencing before permit issuance.* Any person who commences any work on a building, structure, swimming pool and spa, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to administrative penalties and fees established by the Code Official 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 building 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 Code Official when the permit application is withdrawn prior to final processing or when a written request is submitted within ninety (90) days after the permit has been issued. Fees for services rendered, such as costs incurred by the Department for plan reviews completed by design professionals, shall not be refunded to the applicant. A refund fee shall be charged as identified in the Appendix.

Sec. 6.03.017. Certifications.

A. *General.* The Code Official is authorized to accept certifications from permit contractor endorsement holders that certify that materials and installation comply with this Code.

B. *Form.* Such certifications shall be made on a form approved by the Code Official and signed by the permit contractor endorsement holder.

C. *Penalties.* Permit contractor endorsement holders shall be subject to strict liability for any false, misleading or inaccurate certification. Any false, misleading or inaccurate certification shall be deemed a violation of this Chapter and the contractor shall be subject to all penalty provisions including revocation of the contractor license.

D. Certifications shall not be accepted from any contractor who is operating under a limited contractor license, is not in good standing, has had a license denied, suspended or revoked within the past five (5) years, has been issued a violation notice and such violation remains unresolved after the contractor has been afforded an opportunity to contest the violation in a show cause hearing, or has previously made a false, misleading or inaccurate certification.

Sec. 6.03.018 Inspections.

A. *General.* Construction, work and materials shall be subject to inspection by the Code Official as required by the permit or directive of the Code Official and such construction, work and materials shall remain visible

and able to be accessed 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 this Code. Inspections presuming to give authority to violate or cancel the provisions of this Code shall not be valid. It shall be the duty of the permit applicant to cause the work to remain visible and able to be accessed for inspection purposes. Neither the Code Official, nor New Castle County 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 Code Official 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 Code Official shall conduct inspections from time to time during and upon completion of the work for which a permit has been issued. The Code Official is authorized to make or require special inspections of any construction and site work to ascertain compliance with the provisions of this Chapter and other laws that are enforced by the Department. The Code Official may require that a design professional inspect the work and prepare a report for submission to the Office of the Code Official. The cost of special inspections and inspection reports shall be the responsibility of the permit holder.

1. *Footing and foundation inspection.* Footing inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place prior to the placement of concrete.
2. *Foundation inspection.* Foundation inspections shall be made after any required forms are removed and prior to backfill being installed. Dampproofing and waterproofing shall also be visible along with any required foundation drainage material as required by this Chapter or approved construction documents. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.
3. *Exterior framing inspection.* Exterior framing inspection shall be made once all exterior sheathing is installed on both the walls and roof, and prior to the installation of any weather barrier materials or finishes.
4. *Weather barrier inspection.* Weather barrier inspection shall be made after the exterior wall envelope has received the water resistant material, but prior to the installation of any exterior finish materials. This inspection also requires all door and window openings to be protected and flashed in accordance with the manufacturer's installation instructions and this Chapter.
5. *Close-in inspection.* Close-in inspection shall be made after the roof, masonry, framing, firestopping, draftstopping and bracing are in place in conjunction with any required approvals of the rough plumbing, mechanical and electrical inspections.
6. *Insulation Inspection.* Compliance with the Energy Conservation Code shall be verified pursuant to procedures for certification of compliance promulgated by the Delaware Division of Energy and Climate in the Delaware Department of Natural Resources and Environmental Control.
7. *Final inspection.* Final inspection shall be made after the permitted work is complete and prior to occupancy.
8. *Other inspections and permit-related documents.* In addition to inspections mentioned previously in the Chapter, the Code Official shall have authority to make or require any other inspections or permit-related documents to ascertain compliance with the Chapter and other laws enforced by the Code Official.

D. *Inspection requests.* It shall be the duty of the holder of the permit or their duly authorized agent to notify the Code Official 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 Chapter.

E. *Approval required.* Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Code Official. The Code Official, 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 Chapter. Notification of failed inspections shall be in writing and the applicable code 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 Code Official.

F. *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 forth in the Appendix.

G. *Who is eligible to perform inspections required by the County.* All County required inspections shall be performed by a County employee duly authorized by the Code Official. Upon approval by the Code Official an approved inspection agency, or a design professional licensed by the State of Delaware may perform required inspections. Employees of approved inspection agencies, architects, and engineers are independent contractors (herein referred to as third party inspectors) and are not employees of New Castle County. Employees of inspection agencies must affirm their work under penalty of perjury.

1. *Inspection agencies.* The Code Official is authorized to accept reports of approved inspection agencies, provided the Code Official, after sufficient investigation, determines that such agencies are qualified and reliable.
2. *Design Professionals.* Design professionals shall have the authority to conduct inspections as a third party inspector on construction requiring a building permit. A design professional shall not perform any aspect of a third party inspection unless qualified by education or experience.

H. *Third party inspections.*

1. *Regulations for third party inspections.*
 - a. *General.* Third party inspectors shall be responsible for inspecting the construction to make sure that the building or structure conforms to New Castle County Building Code 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. Completed inspection reports and checklists for all required inspections must be approved by the Code Official before a certificate of occupancy will be issued.
 - b. *Conflict.* If a disagreement over Code interpretation should occur between a third party inspector and a contractor, the Code Official shall be authorized to make a final decision in order to resolve said disagreement.
 - c. *License and minimum surety and insurance requirements.* The Code Official shall have the authority to adopt policies and procedures for licensure of third party inspectors performing County required inspections including minimum surety and insurance requirements.

2. *Permit holder responsibilities.*

- a. *Notice to jurisdiction.* It shall be the duty of the holder of the permit or their duly authorized agent to notify the Office of the Code Official to provide the time and date of an inspection at least twenty-four (24) hours in advance.
- b. *Submission.* All reports and records must contain the seal of the architect or engineer and shall be received in the Office of the Code Official within five (5) business days of completion.

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

3. *Third party inspector responsibilities.*

- a. *Current copy of adopted codes.* All third party inspectors are required to obtain the current edition of Chapter 6 of this Code, and all International Codes, as adopted by this Chapter.
- b. *Verification prior to performing inspection.* Under no circumstance shall an inspection be made until a permit for such work is issued by the Office of the Code Official.
 1. 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 Chapter and shall demonstrate to the Code Official justifiable cause for such action before additional inspections may be made by said third party inspector.
 2. 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 Code Official. If the inspector fails to report work being done without a permit, the inspector, or the agency, may be prohibited from performing any future County inspections.
- c. *Report required.* Third party inspectors shall maintain written records of all on-site inspections. 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. The approved inspector shall submit reports to the Permit Holder and to the Code Official. Discrepancies shall be brought to the immediate attention of the contractor for correction. If they are not corrected, the discrepancies shall be brought to the attention of the Code Official prior to the completion of that phase of the work.

Sec. 6.03.019. Certificates of approval.

A. *Certificates required.* A building, structure or system shall not be used or occupied, in whole or in part, and a change of occupancy or change of use of a building or structure or portion thereof shall not be made until the Code Official has issued a certificate of approval as provided herein. Issuance of a certificate of approval shall not be construed as an approval of a violation of the provisions of this Chapter or any other provision of this Code. Violation of this section shall result in a fee as provided in the Appendix and shall be paid before a certificate of approval is issued. A certificate of approval shall be issued in the form of a certificate of occupancy, certificate of completion or a certificate of use. Issuance of a certificate of completion does not attest to the fact that a building or structure is satisfactory for occupancy and use.

Exception: A certificate is not required for work exempt from permits under Section 06.03.012.

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. 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. Any change in use or occupancy must also comply with the provisions of Chapter 40 of this Code.

C. *Certificate issued.* Upon completion of the final inspection and correction of all outstanding violations and discrepancies of this Chapter, the approved plans, the permits, or other provisions of this Code are corrected and all directives of the Code Official are satisfied, the Code Official 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 Chapter for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
7. The signature of the Code Official.
8. The edition of the code under which the permit was issued.
9. If an automatic sprinkler system is provided and whether the sprinkler system is required.
10. Any special stipulations and conditions of the building permit.
11. Recognition as a green building, if applicable.

D. *Temporary occupancy.* The Code Official 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 thirty (30) days. Upon written request by an applicant, a temporary certificate of occupancy may be renewed for successive thirty (30) day periods at the discretion of the Code Official. A fee, as provided in the Appendix, shall be paid by the applicant before such temporary certificate of occupancy is issued or renewed.

E. *Revocation.* The Code Official is authorized to, in writing, suspend or revoke a certificate of occupancy or use issued under the provisions of this Chapter 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 this Code.

F. *Special guidelines for model homes.* Model homes are to be issued a certificate of occupancy before being displayed to the public. All model homes must be covered by the minimum warranty standards promulgated by New Castle County. The warranty term will commence on the date that the certificate of occupancy is issued for the model home.

G. *Certificate of use for a structure or building used for agricultural purposes.* A property owner who claims that a building or structure is exempt from the provisions of this Chapter because it is used for agricultural purposes pursuant to the Delaware Code, shall apply for a certificate of use and affirm that the building or structure is being used for such purposes. The agricultural use shall be the primary use of the building or

structure. Residential buildings and structures located on agricultural lands shall be subject to the provisions of this Chapter.

H. *Other required approvals.* In addition to complying with all chapters of this Code, the type and nature of each permit application will determine when other approvals are required.

Sec. 6.03.020. Special guidelines for work done on historic structures.

A. *Permits for historic structures.*

1. Any person desiring to erect, reconstruct, significantly alter, restore, or relocate any building or structure within a historic zoning district or any property which is eligible to be zoned H (Historic), shall first secure the approval of the Historic Review Board of New Castle County.
2. After approval by the Historic Review Board, the Code Official shall have the authority to require a building permit and a certificate of occupancy or use for the erection, reconstruction, significant alteration, restoration or relocation of any historic building or structure. Once a building permit has become invalid, the applicant must reapply to the Historic Review Board before a new building permit is issued.
3. *Failure to comply with permit conditions.*
 - a. If the Historic Review Board grants approval under this Section, the person seeking to construct or alter any structure or addition shall do so in strict compliance with the features of the plan submitted to and approved by the Historic Review Board. Before any certificate of occupancy is granted to the owner, Department staff shall inspect the property to determine if the structure complies with the plans and conditions as set forth in the permit. If the Planner finds that the structure does not conform, no certificate shall be issued.
 - b. If within thirty (30) days, the person has made no apparent effort to bring the structure into compliance or arrange for an alternative approval from the Historic Review Board, the Code Official shall request the County Attorney to institute the appropriate legal proceedings. Failure to comply with the terms of a permit granted under this Section or in violation of a plan approved by the Historic Review Board shall constitute a violation.

B. *Demolition of historic structures.*

1. The Code Official shall delay for up to a twenty (20) day period the issuance of any demolition permit for any building or structure thought to be over fifty (50) years of age. Within twenty (20) working days of receipt of such permit application, the Code Official shall refer such application to the Historic Review Board for any building or structure thought to be fifty (50) years of age or more, and where the Code Official believes that building or structure demonstrates one or more of the criteria stated in Section 40.15.110 of this Code. If the Historic Review Board determines the building or structure is historically significant, for reasons it shall state in a written opinion to the Code Official, the Historic Review Board may order an additional delay in the issuance of the permit not to exceed nine (9) months from the date of application, during which time alternatives to demolition shall be sought.
2. Upon verification by the Historic Review Board that a building or structure of historic significance has been demolished prior to issuance of a demolition permit, the Code Official shall request the County Attorney to take immediate action to prosecute those responsible for the demolition. In addition, the Code

Official may withhold building permits for that parcel for one to three (3) years, such determination to be made by the Code Official in writing to the legal owner of the property.

Sec. 6.03.021. Emergency measures.

A. *Authority to disconnect service utilities.* The Code Official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Chapter and the referenced codes and standards set forth in Section 06.01.001 in case of emergency where necessary to eliminate an immediate hazard to life or property. The Code Official 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 Code Official, 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 Code Official is hereby authorized and empowered to order and require the occupants to vacate the structure or building. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or demolishing the same.

C. *Restoration.* The structure or equipment determined to be unsafe by the Code Official is permitted to be restored to a safe condition. To the extent that repairs, alterations, or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of this Chapter and of this Code.

D. *Temporary safeguards.* When there is imminent danger due to an unsafe condition, the Code Official 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 Code Official shall take appropriate measures to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being used.

E. *Emergency repairs.* For the purpose of this Section, the Code Official 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.

F. *Unsafe equipment.* Equipment deemed unsafe by the Code Official 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 Code Official in writing.

1. *Authority to seal equipment.* In the case of an emergency, the Code Official shall have the authority to seal out of service immediately any unsafe device or equipment regulated by this Chapter.
2. *Unlawful to remove seal.* Any device or equipment sealed out of service by the Code Official shall be plainly identified in an approved manner. The identification shall not be tampered with, defaced, or removed except by the Code Official and shall indicate the reason for such sealing.

Sec. 6.03.022. Service utilities.

A. *Connection of service utilities.* No person shall make connections from a utility, source of energy or fuel to any building or system that is regulated by this Chapter for which a permit is required, until approved by the Code Official.

B. *Temporary connection.* The Code Official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy or fuel.

Sec. 6.03.023. Demolition.

A. *Lot regulation.* Foundations and slabs shall be removed at least eighteen (18) inches below grade. All holes and disturbances shall be filled to maintain grade, covered with topsoil, and seeded.

Exception: Where an additional permit for new construction has been issued, the lot does not require filling to maintain grade.

ARTICLE 4. BUILDING CODE

Sec. 6.04.001. Adoption of the International Building Code.

That certain document, on file with the office of the Clerk of the County Council, being marked and designated as the International Building Code, 2018 edition, as published by the International Code Council, be and is hereby adopted as the Building Code of New Castle. All the regulations, provisions, conditions, and terms of the International Building Code, 2018 edition, and any supplements, referenced codes, and standards, are hereby referred to, adopted and made part of this Chapter, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.04.002.

Sec. 6.04.002. Amendments to the International Building Code.

The following sections of the International Building Code, 2018 edition, are revised as follows. Note: Although the International Building Code does not identify sections with a “B” designation, such a designation is utilized to avoid any confusion as to which Code the amendment relates.

References to the International Fire Code, 2018 edition, as published by the International Code Council, are not specifically adopted. Provisions of the International Fire Code are addressed through the adoption of the National Fire Prevention Association (NFPA) Codes and Standards and the Delaware Fire Prevention Regulations as adopted by the Delaware State Fire Marshal’s Office.

CHAPTER 1. ADMINISTRATION

Chapter 1, Administration, is amended by deleting the chapter in its entirety. Refer to Article 3 of this Chapter.

CHAPTER 3. USE AND OCCUPANCY CLASSIFICATION

Section B305.2, Group E, Day care facilities, is amended in the third line by deleting the phrase “five children” and substituting the phrase “twelve children.”

Section B305.2.3, Five or fewer children in a dwelling unit, is amended in the title and the third line by deleting the word “Five” and substituting the word “Twelve”.

Section B308.5, Institutional Group I-4, day care facilities, is amended in the third line by deleting the phrase “persons” and substituting the phrase “adults or more than 12 children.”

Section B308.5.1, Classification as Group E, is amended in the second line by deleting the word “five” and substituting the word “twelve”.

Section B308.5.4, Five or fewer persons receiving care in a dwelling unit, is amended in the title and third line by deleting the phrase “Five or fewer persons” and substituting “More than five adults or more than twelve children of any age”.

Section B310.4, Residential Group R-3, is amended in the seventh line by deleting the word “persons” and substituting the phrase “adults or twelve or fewer children”.

Section B310.4.1, Care facilities within a dwelling, is amended in the second line by deleting the word “persons” and substituting the phrase “adults or twelve or fewer children” and in the fourth, fifth and sixth lines by deleting the phrase “an automatic sprinkler system is installed in accordance with Section 903.3.1.3

or Section P2904 of the International Residential Code” and substituting the phrase “the following restrictions are met: (i) A license shall be obtained from the State of Delaware Department of Services of Children, Youth, and Their Families. All regulations of such Department shall be met; (ii) Rooms to be occupied by infants shall have a direct path of egress, on the same floor level, to the exterior of the house; (iii) Smoke alarms shall be installed in accordance with Section B907; (iv) Carbon monoxide detection shall be installed in accordance with Section B915.”

CHAPTER 4. SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY

Section B402.6.2, Kiosks, is amended by deleting item number two (2) in its entirety and substituting the following:

2. Kiosks or similar structures located within the mall shall be provided with approved fire suppression and detection devices when there is anything that shields the mall sprinkler system from areas within the kiosk.

Section B427.1, General, is amended by deleting the subsection in its entirety and substituting the following:

Section B427.1, General. Medical gas systems shall be designed, constructed, and maintained in accordance with this Code and the provisions of NFPA 99.

Section B428.1, Scope, is amended by deleting the subsection in its entirety and substituting the following:

Section B428.1, Scope. Higher education laboratories shall be designed, constructed, and maintained in accordance with this Code and the provisions of NFPA 45.

CHAPTER 9. FIRE PROTECTION SYSTEMS

Section B903.2.1.2, Group A-2, is amended in item number one (1) by deleting “5,000 square feet (464.5 m²)” and substituting “10,000 square feet (929 m²)” and in item number two (2) by deleting “100” and substituting “300.”

Section B907.2.1, Group A, is amended in the fifth, sixth, and seventh lines by deleting the phrase “or where the Group A occupant load is more than 100 persons above or below the lowest level of exit discharge”.

CHAPTER 10. MEANS OF EGRESS

Section B1023.9, Stairway identification signs, is amended in the third line by deleting the word “three” and substituting the word “two.”

Section B1025.1, General, is amended in the second and third lines by deleting the phrase “high-rise buildings” and substituting the phrase “buildings having three (3) or more stories above or below the level of exit discharge”.

CHAPTER 11. ACCESSIBILITY

Section B1105, Accessible entrances, is amended by adding the following subsection:

B1105.2, Requirements for newly constructed places of public accommodation. All buildings which are constructed after January 1, 2011, and intended for use as places of public accommodation as defined by

this Chapter and 6 *Del. C. ch. 45* (“Equal Accommodations”), must be equipped with automatic doors at each entrance that is intended to be a main entrance and is accessible by the general public.

CHAPTER 13. ENERGY EFFICIENCY

Section B1301.1.1 Criteria, is amended by deleting the subsection in its entirety and substituting the following:

Section B1301.1.1 Criteria. Buildings shall be designed and constructed in accordance with the Statewide Energy Conservation Code. The effective date of adoption of future versions of the Statewide Energy Conservation Code shall be published in the Appendix to this Chapter.

CHAPTER 16. STRUCTURAL DESIGN

Section B1608.2, Ground snow loads, is amended to indicate the ground snow loads to be used in determining the design snow loads for roofs is 25 pounds per square foot.

Section B1612.2, Design and construction, is amended at the end of the paragraph by adding the phrase, “and shall have the lowest floor or crawlspace elevated to or above the base flood elevation plus 18 inches”.

Section B1612.3, Established of flood hazard areas, is clarified to depict that the effective date of the most recent FIRM maps for New Castle County is February 4, 2015 and encompasses Map Number 10003C0025J through and including Map Number 10003C0475J and all revisions defined by FEMA FIRM maps.

Section B1612.3.2, Determination of impacts, is amended in the sixth line by deleting the phrase “1 foot (305 mm)” and substituting the phrase “0.1 foot”.

CHAPTER 18. SOILS AND FOUNDATIONS

Section B1803.5, Investigated conditions, is amended by adding the following subsection:

Section 1803.5.13, Subsidence areas. All applications in subsidence areas shall include a report, prepared by a professional geologist or a professional geotechnical engineer registered in the State of Delaware, evaluating the vulnerability of the subsurface of subsidence (sinkholes). The application and report shall be sufficient to establish to the satisfaction of the Code Official after consulting with the Delaware Geological Survey, that the construction methods to be employed will be adequate to minimize the potential for subsidence. A soils report shall not be required for one- and two-family dwellings unless field inspections indicate questionable soils or conditions or it is located in a subsidence area.

Section B1805.4.3, Drainage discharge, is amended by deleting the subsection in its entirety and substituting the following:

Section B1805.4.3, Drainage system. In other than Group I soils, a sump shall be provided to drain the porous layer of footings. The sump pit shall be not less than 18 inches (457 mm) in diameter and not less than 24 inches (610 mm) in depth, unless otherwise approved. The pit shall be provided with access and shall be located such that all drainage flows into the pit by gravity. The sump piping shall conform to the International Plumbing Code. The sump shall discharge to the exterior of the structure at a sufficient distance to prevent recycling. The sump pump crock must have a removable cover.

Table B1807.1.6.2, Concrete foundation walls, is amended by adding the following footnote:

“f. In the absence of soil data, the following ratings shall be used for the lateral soil load: 60 PSF/FT for basement walls; 45 PSF/FT of depth for retaining walls; and 200 PSF/FT of depth for passing pressure.”

Table B1807.1.6.3(1), Plain masonry foundation walls, is amended by adding the following footnote:

“g. In the absence of soil data, the following ratings shall be used for the lateral soil load; 60 PSF/FT for basement walls; 45 PSF/FT of depth for retaining walls; and 200 PSF/FT of depth for passing pressure.”

Section B1809.5, Frost Protection, Number 1, is amended by deleting it in its entirety and substituting the phrase “Extending to a depth of not less than 32 inches below grade.”

CHAPTER 22. STEEL

Section B2205.1, General, is amended by adding the following sentence at the beginning of the paragraph: “The structural engineer of record shall be responsible for the design and adequacy of all structural steel, including connections.”

CHAPTER 23. WOOD

Section B2304.12, Protection against decay and termites, is amended by adding the following subsection:

B2304.12.2.7, Foundation sill plates. All sill plates anchored to foundation walls shall be of approved naturally durable or preservative treated wood.

Section B2304.12, Protection against decay and termites, is amended by adding the following subsection:

B2304.12.2.8, Wood in contact with masonry or concrete. All wood against masonry or concrete must be approved naturally durable, preservative treated wood, or protected in an approved manner.

CHAPTER 24. GLASS AND GLAZING

Section B2403.1, Identification, is amended by adding the following sentence to the end of the subsection: “Glass that is not labeled shall be assumed to be annealed or plate glass.”

CHAPTER 25. GYPSUM BOARD, GYPSUM PANEL PRODUCTS AND PLASTER

Section B2510.6, Water-resistive barriers, Exception Number 1, is amended in the sixth line by deleting the phrase “or drainage space” and substituting “and integrated with a continuous designed drainage space (a gap) that allows moisture to drain freely to the exterior of the assembly.”

A drainage space shall be, but not limited to, a space formed by the use of any non-corrodible furring strips, drainage mat, or drainage board which allows for the continuous flow of moisture. Such products and designs must adhere to this section and those requirements outlined in Section 06.03.011(N) “Alternative materials, design, and methods of construction and equipment”.

CHAPTER 27. ELECTRICAL

Section B2702.1.4, Load transfer, is amended in the fifth line by deleting the number “60” and substituting the number “10”.

CHAPTER 30. ELEVATORS AND CONVEYING SYSTEMS

Chapter 30, Elevators and conveying systems, is amended by adding the following section and subsections:

Section B3009, Certificate of Compliance.

Section B3009.1, General. The operation of all equipment governed by the provisions of this Chapter and hereafter installed, relocated or altered shall be unlawful by persons other than the installer thereof until such equipment has been inspected and tested as herein required and a final or limited certificate of compliance has been issued thereof by the Code Official.

Section B3009.2, Final certificate of compliance. The Code Official shall issue a final certificate of compliance for each unit of equipment which has satisfactorily met all of the inspection and tests required by this Chapter. The final certificate shall also include the necessary space for inserting the name of the person who made the periodic inspection and witnessed the periodic and maintenance tests and the date of the periodic inspection and the maintenance test.

Section B3009.3, Limited certificate of compliance. The Code Official is authorized to issue a limited certificate of compliance for any equipment covered by this Chapter, which is hereafter installed, relocated or altered, to permit limited use by the person designated therein during the period of such installation, relocation or alteration. Such certificate shall be signed by the Code Official, shall bear the dates of issue, renewal and expiration, and shall designate the class of service allowed.

Section B3009.3.1, Tests and minimum safeguards required. A limited certificate shall not be issued for an elevator until such elevator has satisfactorily passed tests for rated load, car and counterweight safety, and terminal stopping devices. Permanent or temporary guards and enclosures shall be installed on the car, around the hoistway and at the landing entrances. Equipment other than elevators shall be tested and protectives shall be provided as deemed necessary by the Code Official to ensure safe operation for the limited service specified.

Section B3009.3.2, Special conditions. Automatic and continuous pressure operation elevators shall not be placed in temporary operation from the landing pushbuttons unless the door-locking device and interlocks required by ASME A17.1 listed in chapter 35 of this code are installed and operative. Where the car is operable only from inside, landing entrance guards shall be provided with locks that are releasable from the hoistway side only.

Section B3009.3.3, Time limitation. Limited certificates of operation shall be issued for periods of not more than thirty (30) days. The Code Official is authorized to renew the limited certificates of operation for additional periods of not more than thirty (30) days each.

Section B3009.4, Posting certificates of compliance. The owner or lessee shall post the last-issued certificate of compliance in a conspicuous place available to the Code Official.

CHAPTER 31. SPECIAL CONSTRUCTION

Section B3107.1, General, is amended by deleting the subsection in its entirety and substituting the following:

Section B3107.1, General. Signs shall be designed, constructed and maintained in accordance with this code and with Chapter 40 of this Code.

CHAPTER 32, ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY, is amended by deleting it in its entirety.

CHAPTER 33. SAFEGUARDS DURING CONSTRUCTION

Section B3302, Construction safeguards, is amended by adding the following subsections:

Section B3302.4, Storage of construction and demolition waste. Construction and demolition waste may be stored upon the land where actual construction or demolition is in progress; provided, however, that such waste shall not be stored for a period exceeding one hundred and twenty (120) days and all other waste not stored in a dumpster shall not be stored for periods exceeding thirty (30) days.

Section B3302.5, Handling and storage of construction and demolition waste, trash, and litter. During all construction activities, the lot(s) shall be kept neat of trash and building materials. All construction sites shall be required to obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction and demolition waste created or accumulated on the site, which might be blown from the site. All such construction refuse shall be maintained in a closed container, or a container of sufficient depth to prevent construction and demolition waste from blowing out of the container, at all times, until transferred to a landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists and thereby create traffic hazards. It shall be a violation to permit accumulated debris, litter, or trash attributable to the construction site and the construction activity to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or in transit to a landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

Section B3302.6, Final Inspection. A final cleanup is required, including the removal of all building debris, stumps, portable toilets, etc. within five (5) days after the final inspection on that parcel.

Exception: Stumps located outside of the limit of disturbance that are not required to be removed by any plan approved by the Department are not subject to this section.

Section B3302.7, Enforcement. Any person who fails to comply with the requirements found in this Section shall be subject to the penalty and enforcement provisions provided in this Chapter.

Section B3303.6, Utility connections, is amended by deleting the subsection in its entirety and substituting the following:

Section B3303.6, Utility connections. Before a structure is demolished or removed, the owner or agent shall notify all utilities having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

Section B3303, Demolition, is amended by adding the following subsection:

Section B3303.8, Notice to adjoining owners. Only when notice has been given by the applicant to the owners of adjoining lots and the owners of wires or other facilities, of which the temporary removal is necessitated by the proposed work, shall a permit be granted for the removal of a building or structure.

ARTICLE 5. RESIDENTIAL CODE

Sec. 6.05.001. Adoption of the International Residential Code

That certain document, on file with the office of the Clerk of the County Council, being marked and designated as the International Residential Code, 2018 edition, including Appendix E, as published by the International Code Council, be and is hereby adopted as the Residential Code of New Castle County. All the regulations, provisions, conditions, and terms of the International Residential Code, 2018 edition, and any supplements, referenced codes, and standards, are hereby referred to, adopted and made part of this Chapter, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.05.002.

Sec. 6.05.002. Amendments to the International Residential Code.

The following sections of the International Residential Code, 2018 edition, are revised as follows. Note: Although the International Residential Code does not identify sections with a “R” designation, such a designation is utilized to avoid any confusion as to which Code the amendment relates.

CHAPTER 1. ADMINISTRATION

Chapter 1, Administration, is amended by deleting the chapter in its entirety. Refer to Article 3 of this Chapter.

CHAPTER 2. DEFINITIONS

Section R202, Definitions, is amended by adding the definition “*Decorative coating.* A single coat of plaster, cementitious or other approved material applied to a concrete or masonry for cosmetic purposes only.”

CHAPTER 3. BUILDING PLANNING

Table R301.2(1), Climatic and Geographic Design Criteria, is filled in as follows:

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			Winter Design Temp	Ice Barrier Underlayment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp
	Speed	Topographic effects	Special Wind region	Wind-borne debris zone		Weathering	Frost line depth	Termite					
25 lbs./sq.ft.	115 mph	No	No	No	B	Se ve re	32”	Yes	14°F	No	10/05/2000 2/04/2015	596	54°F
MANUAL J DESIGN CRITERIA													
Elevation		Latitude		Winter heating	Summer cooling	Altitude correction factor		Indoor design temperature	Design temperature cooling	Heating temperature difference			
78 ft		39°		14°F	89°F	1.0		72°F	75°F	58°F			
Cooling temperature difference		Wind velocity heating		Wind velocity cooling	Coincident wet bulb	Daily range		Winter humidity	Summer humidity				
14°F		15 mph		7.5 mph	74	M		50%	50%				

Table R301.2(1), Flood hazards, is clarified to depict that the effective date of the most recent FIRM maps for New Castle County is February 4, 2015 and encompasses Map Number 10003C0025J through and including Map Number 10003C0475J and all revisions defined by FEMA FIRM maps.

Figure R301.2(6), Ground snow loads for the United States, is clarified to depict that all of New Castle County shall fall within the 25 pounds per square foot area.

Section R302.1, Exterior walls, Exception Number 3, is amended in the first line by adding the word “garages,” after the word “detached” and in the second line by deleting “exempted from permit” and inserting “that have a fire separation distance of 3 feet or more.”

Table R302.6, Dwelling-garage separation, is amended in the second column of the second row by adding the phrase “two layers of” before the number “5/8.”

Table R302.6, Dwelling-garage separation, is amended in the second column of the third row by deleting “1/2” and substituting the phrase, “two layers of 5/8” and at the end of the phrase inserting “applied to the garage side”.

Section R303.4, Mechanical ventilation, is amended by deleting the subsection in its entirety.

Section R303.6, Outside opening protection, is amended by deleting the subsection in its entirety.

Section R303.11, Prohibited connections, is added as a new subsection as follows:

Section R303.11, Prohibited connections. It shall be unlawful for any person to connect sump pump, French drains, area drainage, storm drainage, roof drainage, swimming pool drainage, condensate pump drainage, or drainage from any device directly or indirectly into any public or private sewer, except when such a connection has been specifically authorized in writing by the General Manager of Public Works.

Exception: Heater condensate drains connected into the sanitary sewer system for slab-on-grade foundation or total crawl space dwellings. The connection of this drain shall be upstream of a trap to block the backflow of any sewer gases into the dwelling.

Section R305.1, Minimum height, is amended in the first and second lines by deleting the phrase “and portions of basements containing these spaces.”

Section R305.1.1, Basements, is amended in the first line by deleting the phrases “Portions of” and “do not.”

Section R309.1, Floor surface, is amended by deleting the second sentence and substituting the following: “That area of the floor used for parking automobiles or other vehicles shall have a four (4) inch step between the garage and the living space and shall be sloped to facilitate the movement of liquids to a drain or toward the main vehicle entry doorway.”

Section R310.6, Alterations or repairs of existing basements, is amended in the first and third lines by deleting the phrase “Alterations or” from both.

Section R310.6, Alterations or repairs of existing basements, Exception, is amended in the first line by adding the phrase, “habitable space or” after the word “new”.

Section R311.2, Egress door, is amended by deleting the fourth sentence and substituting “All interior doors and openings in the path of egress shall have a minimum width of 2 feet 6 inches and a minimum height of 6 feet 6 inches. Doors to bathrooms or powder rooms may have a width of 2 feet 4 inches.”

Section R311.3.1, Floor elevations at the required egress doors, exception, is amended in the second and third lines deleting the phrase “the top of the threshold” and substituting “in the interior floor.”

Section R311.3.2, Floor elevations for other exterior doors, is amended in the fourth lines by deleting the phrase “top of the threshold” and substituting “interior floor.”

Section R311.7.5.1, Risers, Exception, is amended by adding the following as exception number three:

3. Where the bottom or top riser adjoins a sloping public way, walkway or driveway having an established grade and serving as a landing, the bottom or top riser is permitted to be reduced along the slope to less than 4 inches (102 mm) in height with the variation in height of the bottom or top riser not to exceed one unit vertical I 12 units horizontal (8-percent slope) of stairway width.

Section R313.1, Townhouse automatic fire sprinkler systems, is amended in the second line by deleting the word “shall” and substituting the word “may.”

Section R313.1, Townhouse automatic fire sprinkler system, Exception, is amended by deleting the exception in its entirety.

Section R313.1.1, Design and installation, is amended in the third line by deleting the phrase "Section P2904 or".

Section R313.2, One- and two-family dwellings automatic fire sprinkler systems, is amended in the second line by deleting the word “shall” and substituting the word “may.”

Section R313.2, One- and two-family dwellings automatic fire sprinkler systems, is amended by deleting the exception in its entirety.

Section R313.2.1, Design and installation, is amended in the third line by deleting the phrase "Section P2904 or".

Section R314.2.2, Alterations, repairs and additions, is amended by adding the following exception number three:

3. Minor interior renovations to dwellings require the installation of battery operated smoke alarms as required by the International Residential Code.

Section R315.2.2, Alterations, repairs and additions, is amended by adding the following exception number three:

3. Minor interior renovations to dwellings require the installation of battery operated carbon monoxide alarms as required by the International Residential Code.

Section R317.1, Location required, Number 2, is amended in the second and third line by deleting “and are less than 8 inches (203 mm) from exposed ground.”

Section R322.1.4.2, Determination of impacts, is amended in the eighth and ninth lines by deleting the phrase “1 foot (305 mm)” and substituting the phrase “0.1 foot”.

Section R322.2.1, Elevation requirements, Number 1, is amended in the third line by adding the phrase “or crawlspace” after the word “floors” and in the fourth line by deleting the phrase “1 foot (305 mm)” and substituting “18 inches (457 mm).”

Section R322.2.1, Elevation requirements, Number 2, is amended in the fifth and sixth lines by deleting the phrase “1 foot (305 mm)” and substituting “18 inches (457 mm).”

Section R322.2.1, Elevation requirements, Number 3, is amended in the third line by deleting the phrase “1 foot (305 mm)” and substituting “18 inches (457 mm).”

Section R322.3.2, Elevation requirements, Number 1, is amended in the seventh line by deleting the phrase “1 foot (305 mm)” and substituting the phrase “18 inches (457 mm).”

Section R322.3.2, Elevation requirements, Number 4, is amended in the second line by adding the phrase “not to exceed 20 cubic yards on a single lot,” after the word “fill,”.

Section R328, Construction Sanitation, is added as a new section as follows:

Section R328, Construction sanitation.

Section R328.1, Facilities Required. Sanitary facilities shall be provided during construction, remodeling or demolition activities in accordance with the Statewide Plumbing Code.

Section R328.2, Storage of construction and demolition waste. Construction and demolition waste may be stored upon the land where actual construction or demolition is in progress; provided, however, that such waste shall not be stored for a period exceeding ninety (90) days and all other waste not stored in a dumpster shall not be stored for periods exceeding thirty (30) days.

Section R328.3, Handling and storage of construction and demolition waste, trash, and litter. During all construction activities, the lot(s) shall be kept neat of trash and building materials. All construction sites shall be required to obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction and demolition waste created or accumulated on the site, which might be blown from the site. All such construction refuse shall be maintained in a closed container, or a container of sufficient depth to prevent construction and demolition waste from blowing out of the container, at all times, until transferred to a landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists and thereby create traffic hazards. It shall be a violation to permit accumulated debris, litter, or trash attributable to the construction site and the construction activity to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or in transit to a landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

Section R328.4, Final Inspection. A final clean-up is required, including the removal of all building debris, stumps, portable toilets, etc. within five (5) days after the final inspection on that parcel.

Exception: Stumps located outside of the limit of disturbance that are not required to be removed by any plan approved by the Department are not subject to this section.

Section R328.5, Enforcement. Any person who fails to comply with the requirements found in this Section shall be subject to the penalty and enforcement provisions provided in this Chapter.

CHAPTER 4. FOUNDATIONS

Table R403.1(1), Minimum width and thickness for concrete footings for light-frame construction, is amended by deleting the number six (6) from all columns and substituting the number eight (8).

Table R403.1(2), Minimum width and thickness for concrete footings for light-frame construction with brick veneer, is amended by deleting the number six (6) from all columns and substituting the number eight (8).

Table R403.1(3), Minimum width and thickness for concrete footings with cast-in-place concrete or fully grouted masonry wall construction, is amended by deleting the number six (6) from all columns and substituting the number eight (8).

Section R405.1, Concrete or masonry foundations, is amended by adding the following subsection:

Section R405.1.2, Drainage system. In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump pit shall be not less than 18 inches (457 mm) in diameter and not less than 24 inches (610 mm) in depth, unless otherwise approved. The sump shall discharge to the exterior of the structure at a sufficient distance to prevent recycling. The sump pump crock must have a removable cover.

Section R405.2.3, Drainage system, is amended in the fifth and sixth lines by deleting the phrase “below the bottom of the basement floor” and substituting the phrase “in depth.”

Section R407.3, Structural requirements, is amended in the second line by adding the phrase at the top and after the word “displacement”.

CHAPTER 5. FLOORS

Table R507.3.1, Minimum footing size for decks, is amended by deleting the number six (6) from all columns and substituting the number eight (8).

Table R507.3.1, Minimum footing size for decks, footnote c., is amended by deleting the phrase “6 inches” and substituting the phrase “8 inches”.

CHAPTER 7. WALL COVERING

Section R703.7, Exterior plaster (stucco), is amended after the first sentence by adding the following sentence: “Decorative coatings applied to a concrete or masonry surface shall be installed in accordance with the manufacturer’s installation instructions and are not required to comply with Table 702.1(1).”

Section R703.7.3, Water-resistive barriers, is amended in the fifth line after the word “paper” by adding the phrase “and integrated with a continuous designated drainage space (a gap) that allows moisture to drain freely to the exterior of the assembly.”

Section R703.7.3, Water-resistive barriers, Exception, is amended by deleting the exception ~~in its entirety~~ and substituting:

Exception: Where the water-resistive barrier that is applied over wood-based sheathing has a water-resistive equal to or greater than that of a 60-minute Grade D paper and is separated from the stucco by an intervening, substantially nonwater-absorbing layer and integrated with a continuous designed drainage space (a gap) that allows moisture to drain freely to the exterior of the assembly.

A drainage space shall be, but not limited to, a space formed by the use of any non-corrodible furring strips, drainage mat or drainage board which allows for the continuous flow of moisture. Such products and designs must adhere to this section and those requirements outlined in Section 06.03.011(N) "Alternative materials, design, and methods of construction and equipment".

CHAPTER 11. ENERGY EFFICIENCY

Chapter 11, Energy efficiency, is amended by deleting the chapter in its entirety and substituting the following:

Section N1101 General. Buildings shall be constructed in accordance with the provisions of the Statewide Energy Conservation Code. The effective date of adoption of future versions of the Statewide Energy Conservation code shall be published in the Appendix to this Chapter.

CHAPTER 12. MECHANICAL ADMINISTRATION through and including CHAPTER 43. CLASS 2 REMOTE-CONTROL, SIGNALING AND POWER-LIMITED CIRCUITS

Section M1201 through and including Section E4304.5, together with all tables and figures contained therein, are amended by deleting the chapters in their entirety.

APPENDIX E. MANUFACTURED HOUSING USED AS DWELLINGS

Appendix E. Manufactured housing used as dwellings, is adopted with the following modifications: Subsection AE102.5 and sections AE305, AE505 are hereby deleted.

APPENDIX J. EXISTING BUILDINGS AND STRUCTURES

Appendix J. Existing building and structures, is adopted in its entirety.

ARTICLE 6. MECHANICAL CODE

Sec. 6.06.001. Enforcement of the Statewide HVACR Code.

Pursuant to 24 *Del. C.* ch. 18, the Department of Land Use shall enforce the most recent version of the International Mechanical Code published by the International Code Council as adopted or State Board of Plumbing, Heating, Air Conditioning, Ventilation and Refrigeration Examiners. The effective date of each version of the adopted Statewide HVACR Code shall be published in the Appendix to this Chapter.

ARTICLE 7. PLUMBING CODE

Sec. 6.07.001. Enforcement of the Statewide Plumbing Code.

Pursuant to 16 *Del. C.* ch. 79, the Department of Land Use shall enforce the most recent version of the International Plumbing Code published by the International Code Council as adopted and modified by the Delaware Division of Public Health. The effective date of each version of the adopted Statewide Plumbing Code shall be published in the Appendix to this Chapter.

Note: Chapter 38 of this Code and Section 06.03.012(I)5 contain grease trap requirements as regulated by New Castle County Public Works.

ARTICLE 8. FUEL GAS CODE

Sec. 6.08.001. Enforcement of the Statewide Fuel Gas Code.

Pursuant to 24 *Del. C.* ch. 18, the Department of Land Use shall enforce the most recent version of the International Fuel Gas Code published by the International Code Council as adopted and modified by the State Board of Plumbing, Heating, Air Conditioning, Ventilation and Refrigeration Examiners. The effective date of each version of the adopted Statewide Fuel Gas Code shall be published in the Appendix to this Chapter.

ARTICLE 9. EXISTING BUILDING CODE

Sec. 6.09.001. Adoption of the International Existing Building Code.

That certain document, on file with the office of the Clerk of the County Council, being marked and designated as the International Existing Building Code, 2018 edition, including Appendix A and Appendix B, as published by the International Code Council, be and is hereby adopted as the Existing Building Code of New Castle County. All regulations, provisions, conditions, and terms of the International Existing Building Code, 2018 edition, and any supplements, referenced codes, and standards, are hereby referred to, adopted and made part of this Chapter, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.09.002.

Sec. 6.09.002. Amendments to the International Existing Building Code.

The following sections of the International Existing Building Code, 2018 edition, are revised as follows. Note: Although the *International Existing Building Code* does not identify sections with an “E” designation, such a designation is utilized to avoid any confusion as to what Code the amendment relates.

CHAPTER 1. ADMINISTRATION

Chapter 1, Administration, is amended by deleting the chapter in its entirety. Refer to Article 3 of this Chapter.

CHAPTER 2. DEFINITIONS

Section E202, General definitions, is amended by deleting the definition of Existing Building and substituting the following:

Existing Building. A building erected prior to the date of adoption of the appropriate code, or one for which a legal certificate of occupancy has been issued.

Section E202, General Definitions, is amended by adding the following:

International Building Code means the International Building Code as adopted and amended by New Castle County.

International Fuel Gas Code means the Statewide Fuel Gas Code.

International Mechanical Code means the Statewide HVACR Code.

International Plumbing Code means the Statewide Plumbing Code.

International Residential Code means the International Residential Code as adopted and amended by New Castle County.

CHAPTER 3. PROVISIONS FOR ALL COMPLIANCE METHODS

Section E301 is amended by adding the following subsection:

Section E301.6 Building Evaluation. The Code Official is authorized to require an existing building to be investigated and evaluated by a registered design professional to determine the existence of any potential nonconformance with the provisions of this Chapter.

CHAPTER 4. REPAIRS

Section E406, Electrical, is amended by deleting the subsection in its entirety.

CHAPTER 8. ALTERATIONS – LEVEL 2

Section E807, Electrical, is amended by deleting the subsection in its entirety.

CHAPTER 10. CHANGE OF OCCUPANCY

Section E1007, Electrical, is amended by deleting the subsection in its entirety.

ARTICLE 10. ENERGY CONSERVATION CODE

Sec. 6.10.001. Enforcement of the Statewide Energy Conservation Code.

Pursuant to 16 *Del. C.* ch. 76, the Department of Land Use shall enforce the most recent version of the International Energy Conservation Code published by the International Code Council as determined and adopted by the Delaware Energy Office, or its successor. The effective date of each version of the Statewide Energy Conservation Code shall be published in the Appendix to this Chapter.

ARTICLE 11. SWIMMING POOL AND SPA CODE

Sec. 6.11.001. Adoption of the International Swimming Pool and Spa Code.

That certain document, on file with the office of the Clerk of the County Council, being marked and designated as the International Swimming Pool and Spa Code, 2018 edition, as published by the International Code Council, be and is hereby adopted as the Swimming Pool and Spa Code of New Castle County. All regulations, provisions, conditions, and terms of the International Swimming Pool and Spa Code, 2018 edition, and any supplements, referenced codes, and standards, are hereby referred to, adopted and made part of this Chapter, as if fully set out in this legislation, with the additions, insertions, deletions and changes prescribed in Sec. 6.11.002.

Sec. 6.11.002. Amendments to the International Swimming Pool and Spa Code.

The following sections of the International Swimming Pool and Spa Code, 2018 edition, are revised as follows. Note: Although the International Swimming Pool and Spa Code does not identify sections with an “SP” designation, such a designation is utilized to avoid any confusion as to what Code the amendment relates.

CHAPTER 1. ADMINISTRATION

Chapter 1, Administration, is amended by deleting the chapter in its entirety. Refer to Article 3 of this Chapter.

CHAPTER 2. DEFINITIONS

Section SP202, General definitions, is amended by adding the following:

International Building Code means the International Building Code as adopted and amended by New Castle County.

International Fuel Gas Code means the Statewide Fuel Gas Code.

International Mechanical Code means the Statewide HVACR Code.

International Plumbing Code means the Statewide Plumbing Code.

International Residential Code means the International Residential Code as adopted and amended by New Castle County.

CHAPTER 3. GENERAL COMPLIANCE

Section SP302.1, Electrical, is amended by adding the following subsection:

Section SP302.1.1, Overhead wires. No public or private swimming pool shall be constructed below any overhead utility wires unless in accordance with the latest edition of the National Electrical Code. The location of any overhead utility wires relative to the placement and operation of any public or private swimming pool shall be in compliance with the latest edition of the National Electrical Code.

Section SP302.6 through and including Section SP321.4, are amended by deleting all references to the phrase “Section 102.7.1” and substituting “this Chapter”.

Section SP305.4, Structure wall as a barrier, is amended in the fourth line by deleting the phrase “one of.”

Section SP305.4, Structure wall as barrier, Number 3, is amended by deleting it in its entirety and substituting “3. The pool shall be equipped with a pool alarm that complies with ASTM F 2208.”

Section SP305.4, Structure wall as barrier, is amended after item number three by adding the following:

Exception: An approved means of protection, such as self-closing doors with self-latching devices, provided that the degree of protection afforded is not less than the protection afforded in Items 1, 2, or 3.

Section SP305.5, Onground residential pool structure as a barrier, Number three, is amended in the second and third lines by deleting the phrase “capable of being secured, locked or removed to prevent access except where the ladder or steps are.”

Section SP305.5, Onground residential pool structure as a barrier, Number four, is amended in the first line by deleting the phrase “, locking or removal.”

CHAPTER 4. PUBLIC SWIMMING POOLS

Section SP401, General, is amended by adding the following section:

SP401.7, Equipment installations. Pumps, filters and other mechanical and electrical equipment for public swimming pools shall be enclosed in such a manner as to provide access only to authorized persons and not to bathers. Construction and drainage shall be arranged to avoid the entrance and accumulation of water in the vicinity of electrical equipment.

Section SP406.2, Pool perimeter access, is amended by deleting the subsection in its entirety and substituting the following:

Section SP406.2, Walkways. All public swimming pools shall have walkways not less than 4 feet (1291 mm) in width extending around pool. Curbs or sidewalks around any swimming pool shall have a slip-resistant surface and shall be so arranged as to prevent return of surface water to the pool.

ARTICLE 12. VIOLATIONS, ENFORCEMENT, AND PENALTIES

Sec. 6.12.001. 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 Chapter, or cause same to be done, in conflict with or in violation of any of the provisions of this Chapter, a permit, a certificate, a license, an approved plan, or a directive of the Code Official.

Sec. 6.12.002. Enforcement.

Any person who violates a provision of this Chapter 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, license, or directive of the Code Official, shall be subject to the penalty and enforcement provisions provided in this Chapter.

A. *Criminal enforcement.* Any person violating the provisions of this Chapter 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.

1. *Dismissal charges.* Any person subject to criminal prosecution under this Chapter may avoid the same upon presenting sufficient evidence to establish that the alleged violation has been remedied. At the discretion of the County Attorney, or his or her designee, and if sufficient evidence is presented prior to trial, the charges may be *nolle prosequi* with or without prejudice.
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.
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; (i) 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); (ii) For the second conviction for the same offense, the penalty shall be a fine of not less than two hundred and fifty dollars (\$250.00), nor more than one thousand dollars (\$1,000.00).
4. *Continuing violations.* Each day any violation of this Chapter shall continue shall constitute a continuing violation for which a separate conviction may be obtained and a separate penalty for each day shall be imposed, and shall be considered a single conviction for the purposes of Sec. 6.12.002(A)(3).

B. *Civil enforcement.* Any person violating the provisions of this Chapter may be subject to a civil proceeding instituted by the County Attorney. The County Attorney may apply to the Court of Chancery for injunctive relief against the person, to prevent, abate, or enjoin any continuing violation of the provisions of this Chapter. The violator shall be responsible for any costs incurred in preventing, abating, or enjoining such violations.

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

1. *Code violations – health, safety, welfare of public not in jeopardy.*

- a. *Notice of violation.* The Code Official 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 provisions of this Code, an approved plan, directive of the Code Official, or in violation of a permit, license, or certificate issued under the provisions of this Chapter.
- b. *Form of violation notice.* 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 Code being violated; and (iv) include a correction order directing the person to remedy the code violation by such time as determined by the Code Official.
- c. *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 the Hearing prior to any penalty being imposed. After such show cause hearing, the Code Official shall render a written decision within twenty (20) days, informing the person of his or her decision and detail the reasons for any adverse action taken against the person. The show cause decision shall be delivered pursuant to the method of service provisions of this Article.

2. *Stop work order – Health, safety, welfare of public in jeopardy, unsafe work, or work being done in the absence of a necessary approval, inspection, plan, permit, license, or contractor license.*

- a. *Stop work order.* Whenever the Code Official determines that work on any premises is being done during hours in which construction noise is prohibited by Chapter 22, is being done in an unsafe or dangerous manner, jeopardizes the health, safety, or welfare of the public, or is being done in the absence of a necessary approval, inspection, plan, permit, license, or contractor license, such work shall be immediately stopped.
- b. *Form of order.* 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 responsible for the property. Upon issuance of a stop work order, the cited work shall immediately cease. 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 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) shall require the person notified to appear within no more than ten (10) days at a specified time in the Office of the Code Official, to show cause why the work should be allowed to continue.
- c. *Stop work applicable to subdivision.* When a stop work order has been issued on work being performed on or in a residential building within a subdivision, the Code Official may also place a stop work order on all other work being performed by the permit holder on or in the other residential

buildings under construction within the subdivision for a period of time not exceeding fifteen (15) days in order to ascertain whether the code violations exist in the other buildings.

- d. *Unlawful continuance.* 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 Chapter.
 - e. *Post-deprivation show cause hearing.* If action is taken pursuant to this subsection, the Code Official shall schedule a show cause hearing and provide the person to whom the permit was issued, the owner, or the person responsible for the property with the reasons for the action. The person shall be provided an opportunity to defend his or her conduct and to mitigate liability for damage or costs incurred by the County or its agents to remediate the violation or unsafe condition. After such show cause hearing, the Code Official may institute penalties in addition to costs previously incurred. The Code Official shall issue a written decision within twenty (20) days informing the owner or person responsible for the property of the decision and detailing the reasons for any adverse action taken against the person. The show cause decision shall be delivered pursuant to the method of service provisions of this Article.
3. *Unsafe buildings, structures, and equipment – Health, safety, welfare of public in jeopardy.*
- a. *Conditions.* Buildings, structures, or existing equipment that are or hereafter become unsafe, unsanitary, or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down, removed, or made safe as the Code Official deems necessary and as provided for in this section and Sec. 06.03.021, Emergency measures. A vacant structure that is not secured against entry shall be deemed to be unsafe.
 - b. *Notice.* If an unsafe condition is found in a building, structure, or upon the premises, the Code Official 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 demolitions 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 ten (10) days at a specified time in the Office of the Code Official, 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 Code Official.
 - c. *Post-deprivation show cause hearing.* If action is taken pursuant to this subsection, the Code Official shall schedule a show cause hearing and provide the owner or person responsible for the property with the reasons for the action. 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 County or its agents to remediate the violation or unsafe condition. After such show cause hearing, the Code Official may institute penalties in addition to costs previously incurred. The Code Official shall issue a written decision without twenty (20) days 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. The show cause decision shall be delivered pursuant to the method of service provisions of this Article.

4. *Method of service.* Notice required by this Section shall be satisfied where a copy of the violation notice or stop work order is: (i) 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 as reflected by New Castle County records; 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. 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.
5. *Violation deemed to continue until letter of compliance issued.* In no case shall the Code Official be required to provide a violation notice to any owner or person previously provided notice pursuant to this Article or under any former Code provision where the same Code violation is alleged to exist. A violation shall be deemed corrected when the Code Official issues a letter of compliance.
6. *Prosecution of violation.* If the violation is not corrected pursuant to the terms of the show cause decision, the Code Official is authorized to request the County Attorney to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure that is in violation of the provisions of this Chapter.
7. *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 Code Official, shall be considered to be in violation of this Chapter.
8. *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 Chapter 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 Title 25, Chapter 29 of the Delaware Code.
9. *Penalties provisions.* The following administrative penalties may be imposed by the Code Official.
 - a. *Administrative fines.* Notwithstanding any other section of this Chapter, any person who is found to have violated any provision of this Chapter, permit, certificate, license, approved plan, or directive of the Code Official, in addition to any expense incurred by the County for the removal or abatement of such violation, will be assessed an administrative fine of up to one thousand dollars (\$1,000.00) for each day the violation continues. If the amount is not paid within such time stated, such amount, together with a penalty of ten (10) percent of expenses incurred and interest of six (6) percent per annum shall be assessed against the land or improved premises.
 - b. *Refusal to issue any further building permits, inspections, and certificates of occupancy.* The Code Official 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. Note: The Code Official is authorized to withhold additional permits only under the permit, license, or certificate holder remedies outstanding Code violations.

- c. *Institution of remedial action.* The imposition of the penalties and remedies herein prescribed shall not preclude the Code Official or the County Attorney or their designee from instituting the appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure, or premises. Unless the health, safety, and welfare of the public or any property is in jeopardy, the violator shall be given an opportunity to be heard by an administrative tribunal or court of competent jurisdiction prior to taking such action and an opportunity to remedy the violation consistent with an order or decision therefrom. If the violator fails to comply with the order the County may take any action to call or collect on any bond or insurance established for this purpose. If the County corrects the violation prior to collecting on any bond or insurance established for this purpose, the County may: (i) take any action to 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. All remedial work contractors shall meet the following requirements:
1. Possession of a license as a permit-endorsed contractor and/or formerly certificate of registration with New Castle County for the last five (5) consecutive years.
 2. The licensed contractor shall not have any expired permits.
 3. The licensed contractor shall not have any current or past violations.
 4. The valuation of the remedial work must be commensurate with the license category of the contractor.
 5. The licensed contractor must comply with all Department directives.
 6. The licensed contractor may be removed for cause as a remedial work contractor by the Code Official.
- d. *Denial, suspension, or revocation of any contractor license.* The Code Official may deny, suspend, or revoke any contractor license sought or issued under this Chapter.
1. The Code Official shall identify the period of time the license is suspended or denied. Such period of time shall not be more than two (2) years except that a contractor license or a limited contractor license may not be issued until the expiration of five (5) years from the date of a finding or plea of guilt for any offenses relating to fraudulent or dishonest conduct, or being in violation of any law, rule, or regulation concerning business or building practices.
 2. A contractor license may be revoked based upon any of the following violations.
 - i. Procuring or attempting to procure a contractor license pursuant to this Chapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question for certification or license, or through any form of fraud or misrepresentation.
 - ii. Failing to maintain any of the requirements necessary to obtain a contractor license or failing to timely update information on the application for contractor license.
 - iii. Being found guilty after a judicial or administrative hearing of violating the provisions of this Code, the Delaware Code, or any other statute, law, rule, regulation, or ordinance addressing business or building practices within the past five (5) years.
 - iv. Being convicted of a crime or offense relating to fraudulent or dishonest conduct or behavior in Delaware or any other state within the past five (5) years.

- v. A finding by the Code Official that the contractor was working without a permit twice in any one license period.
 - vi. Providing false, misleading, or inaccurate information on any submittal document, certification, or permit-related document made to the Code Official.
3. Upon the expiration of any such period, the contractor may apply for a limited contractor license and pay all limited contractor license fees and reapplication fees provided for in the Appendix before the application is processed. The Code Official may place restrictions on the limited contractor license in the interest of public health, safety, and welfare.

Sec. 6.12.003. Administrative appeal.

A. An applicant aggrieved by the denial, refusal, suspension, or revocation of any license, permit issued or refused pursuant to this Chapter, or by any administrative enforcement action taken pursuant to this Chapter, or by any notice, order or other action as a result of any County inspection affecting him or her directly shall have the right to an appeal to the Board of License, Inspection and Review. Appeals from zoning, permits, certifications, verifications, reviews or decisions shall be made pursuant to Chapter 40 of this Code. The Board shall not have the authority to waive any requirement of this Chapter.

B. 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.

C. 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.

D. The Board 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.

E. The Board may affirm, modify, reverse, vacate, or revoke the action appealed, provided that such action shall be affirmed by the Board if the action taken was not arbitrary or capricious or was not taken pursuant to law.

F. If a stay of 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.

G. The fee for the filing of an appeal under this Section is set forth in the Appendix.

H. An aggrieved party may appeal the Board's decision by filling a petition for *writ of certiorari* in the Delaware Superior Court.

SCHEDULE OF PERMIT AND REVIEW FEES

Building Permit

Valuation fee:	
For the first \$1,000 valuation or any part thereof up to \$1,000,000.....	\$12.00
For each additional \$1,000 valuation in excess of \$1,000,000.....	\$5.25
Minimum fee.....	\$60.00
Zoning review fee: 10% of permit valuation fee	
Minimum fee.....	\$21.00
Maximum fee.....	\$145.00
Certificate of Occupancy fee:	\$60.00

Demolition Permit

Residential structure, other than single family dwelling.....	\$80.00
Single family dwelling and non-residential structures.....	\$130.00

Mechanical or Plumbing Permit

For the first \$1,000 valuation or any part thereof	\$5.25
For each additional \$1,000 valuation or any part thereof.....	\$5.25
Minimum fee.....	\$65.00

Sign Permit

Valuation fee:	
Per square foot of sign area.....	\$1.00
Minimum fee.....	\$90.00
Zoning review fee: 10% of permit valuation fee	
Minimum fee.....	\$21.00
Maximum fee.....	\$145.00

Additional plan review

For each additional \$1,000 valuation in excess of original valuation	\$3.00
Minimum fee.....	\$75.00

Change of permit record

For each additional \$1,000 valuation or any part thereof.....	\$10.00
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Permit extension

Application fee.....	\$80.00
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Expired permit fine

Per offense	\$25.00
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Working without a permit

For residential work performed by exempt owner defined in Sec. 06.03.012(A):	
..... Permit fee plus additional fee equal to the valuation fee or, permit fee if valuation is inapplicable	
For work performed by all others:	
Permit fee plus additional fee equal to the valuation fee or, permit fee if valuation is inapplicable	
Minimum fee.....	\$300.00