

RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS
ORDINANCE NO. 04-02

Section 1.

That certain documents, three (3) copies of which are on file in the office of the Kent County Levy Court Administrative Office of Kent County, being marked and designated as International Residential Code, including Appendix, Chapters (fill in the applicable Appendix Chapters. See International Residential Code Section R102.5, 2000 edition), as published by the International Code Council and is hereby adopted as the code of Kent County for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in Kent County, and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of such International Residential Code, 2000 edition, published by the International Code Council on file in the office of Kent County are hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2.

That Ordinance No. 01-04 of Chapter 105, §105-4, of the Kent County Code, entitled (International One- and Two- Family Dwelling Code/1998) effective May 1, 2001, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed and replace in its entirety with the International Residential Code/2000 and accompanying supplement. The first adopted building code for Kent County was adopted June 1, 1975.

Section 3.

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Kent County Levy Court hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases to be declared unconstitutional.

Section 4.

That the Kent County Levy Court Administrative Office is hereby ordered and directed to cause this ordinance to be published.

Part I - Administration

CHAPTER 1

ADMINISTRATION

SECTION R101

TITLE, SCOPE AND PURPOSE

R101.1 Title. These provisions shall be known as the Residential Code/2000 for One- and Two-Family Dwellings of Kent County, and shall be cited as such and will be referred to herein as “this code.”

R101.2 Scope. The provisions of the International Residential Code/2000 for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures.

R101.3 Purpose. The purpose of this code is to provide minimum requirements to safeguard life or limb, health and public welfare.

SECTION R102

APPLICABILITY

R102.1 General. Where, in any specific case, different sections of this code 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.

R102.2 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

R102.3 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

R102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and manufacturer's instructions shall apply.

R102.5 Appendices. Provisions in the appendices shall not apply unless specifically referenced in the adopting ordinance.

R102.6 Partial invalidity. In the event any part or 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.

R102.7 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the International Property Maintenance Code or the International Fire Code, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

R102.7.1 Additions, alterations or repairs. Additions, alterations or repairs to any structure shall conform to that required for a new structure without requiring the existing structure to comply with all of the requirements of this code, unless otherwise stated. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

SECTION R103 DIVISION OF INSPECTIONS AND ENFORCEMENT

R103.1 Creation of enforcement agency. The Department of Planning Services, Division of Inspections and Enforcement is hereby established as the official enforcement agency for Kent County, Delaware, and the director in charge thereof shall be known as the building official. The building official shall be appointed by the Levy Court of Kent County.

R103.2 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

SECTION R104

DUTIES AND POWERS OF THE BUILDING OFFICIAL

R104.1 General. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

R104.2 Applications and permits. The building official shall receive applications, review construction documents and issue permits for the erection and alteration of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

R104.3 Notices and orders. The building official shall issue all necessary notices or orders to ensure compliance with this code.

R104.4 Inspections. The building official is authorized to make all of the required inspections, or the building 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 building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

R104.5 Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

R104.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

R104.7 Department records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the

retention of public records.

R104.8 Liability. The building official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered 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 officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

R104.9 Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

R104.9.1 Used materials and equipment. Used materials, equipment and devices shall not be reused unless approved by the building official.

R104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements or structural. The details of action granting modifications shall be recorded and entered in the files of the Division of Inspections and Enforcement.

R104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of the International Code Council (ICC) codes in lieu of specific requirements of this code shall also be permitted as an alternate.

R104.11.1 Tests. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

SECTION R105

PERMITS

R105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

R105.1.1 Annual permit. In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefor to any person, firm or corporation regularly employing one or more qualified trade persons in the building, structure or on the premises owned or operated by the applicant for the permit.

R105.1.2 Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

R105.1.3 Division of highway approval. The Building Official may require an entrance/exit permit from the State Division of Highways upon application for a building permit for all non-residential buildings and residential buildings on State maintained roads.

R105.1.4 Public sewage disposal. The plot plan shall indicate the location of public sewer utilities and points at which connections are to be made accompanied by a sewer lateral permit, issued by the sewer utility, when public sewer is not available.

R105.1.5 Permits for historic structures. Permits for historic structures shall comply with the regulations set forth in the Kent County Zoning Ordinance.

R105.1.6 Other permit approvals. Before a building permit is issued, approvals from the following agencies and not limited to may be required, State Fire Marshall, Kent Conservation, Public Health, DNREC, State recognized electrical inspection agency.

R105.1.7 Energy code compliance. An energy code compliance certificate shall be submitted with each single family dwelling permit application.

R105.2 Work exempt from permit. Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Building:

1. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

2. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
3. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below.
4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
5. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
6. Swings and other playground equipment accessory to a one- or two-family dwelling.
7. Window awnings supported by an exterior wall.
8. replacement of any roof sheathing less than 25% of the roof area

Electrical:

Repairs and maintenance: A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Gas:

1. Portable heating, cooking or clothes drying appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation appliances.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.

Plumbing:

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 code.

The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

R105.2.1 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

R105.2.2 Repairs. Application or notice to the building 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, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

R105.2.3 Public service Agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment that is under the ownership and control of public service agencies by established right.

R105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. 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, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section R106.1.
5. State the valuation of the proposed work.
6. Be signed by owner of record or contractor (agent) for the project, otherwise a written approval from the owner of record will be supplied.
7. Give such other data and information as required by the building official.

R105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

R105.3.1.1 Substantially improved or substantially damaged existing buildings and structures. For applications for reconstruction, rehabilitation, addition, or other improvement of existing buildings or structures located in an area prone to flooding as established by Table R301.2(1), the building official shall examine or cause to be examined the construction documents and shall prepare a finding with regard to the value of the proposed work. For buildings that have sustained damage of any origin, the value of the proposed work shall include the cost to repair the building or structure to its pre-damage

condition. See Kent County Code Article XXIV §205-370 for requirements. Substantial improvement or substantial damage shall meet the requirements of Section R327.

R105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

R105.4 Validity of permit. The issuance or 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 code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

R105.5 Expiration. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.5.1 Time limitation of permit. A permit for any activity for which a permit is required shall be valid for one (1) year from the date of issuance.

105.5.2 Completion of construction. All construction for which a building permit is required must be completed and pass final inspection within two (2) years after issuance of a building permit with one (1) renewal fee of fifty dollars (\$50.00).

105.5.3 Manufactured home placement. Placement of a manufactured home must be completed and pass final inspection, meeting the requirements set forth in the Kent County manufactured home installation code within six (6) months of issuance of the placement permit.

R105.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

105.6.1 Stop work orders. For every permit issued in error or in violation of the provision of the Building Basic code or other ordinance(s) of Kent County or without proper authority, the Building Official shall immediately issue a STOP WORK ORDER pursuant to Section 114.0, setting forth the nature of the violation, setting forth the

conditions under which work will be permitted to resume and/or prescribing the appropriate acts, procedures or appeal by which the error of violation may be cured and a reasonable time of not less than thirty (30) days in which to comply. After the expiration of the permit, it shall become null and void and the permit shall be the same as though it had never been issued.

R105.7 Placement of permit. The building permit or copy thereof shall be kept on the site of the work until the completion of the project.

R105.8 Responsibility. It shall be the duty of every person who performs work for the installation or repair of building, structure, electrical, gas, mechanical or plumbing systems, for which this code is applicable, to comply with this code.

SECTION R106 CONSTRUCTION DOCUMENTS

R106.1 Submittal documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

- Exception:**
1. Single and two-family dwellings, any additions, alterations, and renovations thereto, sheds, and garages incidental to such dwellings.
 2. Farm structures used exclusively for farm use.
 3. The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional 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 code.

R106.1.1 Information on construction documents. Construction documents shall be drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building 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 code and relevant laws, ordinances, rules and regulations, as determined by the building official.

R106.1.2 Manufacturer's installation instructions. Manufacturer's installation instructions, as required by this code, shall be available on the job site at the time of inspection.

R106.1.3 Information for construction in areas prone to flooding. For buildings and

structures in flood hazard areas as established by Table R301.2(1), construction documents shall include:

1. Delineation of flood hazard areas, floodway boundaries, and flood zones, and the design flood elevation, as appropriate;
2. The elevation of the proposed lowest floor, including basement; in areas of shallow flooding (AO zones), the height of the proposed lowest floor, including basement, above the highest adjacent grade; and
3. If design flood elevations are not included on the community's Flood Insurance Rate Map (FIRM), the building official and the applicant shall obtain and reasonably utilize any design flood elevation and floodway data available from other sources.

R106.2 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing the size and location of new construction and existing structures on the site and distances from lot lines. 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.

R106.3 Examination of documents. The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

R106.3.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be approved in writing or by stamp. One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or his or her authorized representative.

R106.3.2 Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

R106.3.3 Phased approval. The building 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 code. 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.

R106.4 Amended construction documents. Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

SECTION R107 TEMPORARY STRUCTURES AND USES

R107.1 General. The building official is authorized to issue a permit for temporary structures and temporary uses. The building official is authorized to grant extensions for demonstrated cause. With regard to and pursuant to a variance granted by the Board of Adjustment or under the provisions of the Kent County Zoning Ordinance §205-19, the Code Official shall issue a permit for temporary uses. Such permits shall be limited as to the time of service granted by the variance or allowed in the Kent County Zoning Ordinance. Temporary use permits shall be limited as to the time of service granted by the variance or no more than 7 consecutive days or a maximum of 14 days in a calendar year. The Division has the discretion to establish the actual term of any temporary construction permit (maximum time length to be no more than 1 year).

R107.2 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

R107.3 Temporary power. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified by any of the designated State Electrical Inspection Agencies.

R107.4 Termination of approval. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

SECTION R108 FEES

R108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

R108.2 Schedule of permit fees. On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority. See Kent County Code §128-6.

R108.3 Building permit valuations. Building permit valuation shall include total value of the work for which a permit is being issued, such as electrical, gas, mechanical, plumbing

equipment and other permanent systems, including materials and labor.

R108.4 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.

R108.5 Refunds. The building official is authorized to establish a refund policy. The refund policy shall insure that all cost incurred by the County for the processing of an application for building permit have been covered by the application fee, and that the refund shall be limited to that portion of the application fee that has not been appropriated to the cost of the application processing.

R108.6 Work commencing before permit Any person who commences any work on a building, structure, gas, or mechanical system before obtaining the necessary permits shall be subject to an additional fee established by the building official that shall be in addition to the required permit fees. [The fees will be as stated in the Kent County Schedule of fees.]

****LC-06-39 Effective 09/12/06 From Kent County Fee Schedule, "After-the-Fact" permitting for structures constructed prior to the issuance of a Kent County Building Permit shall be double the base building permit fee.**

SECTION R109 INSPECTIONS

R109.1 Types of inspections. For on-site construction, from time to time the building official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent wherein the same fails to comply with this code.

R109.1.1 Foundation inspection. Inspection of the foundation shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

R109.1.2 Plumbing, mechanical, gas and electrical systems inspection. Rough inspection of plumbing, mechanical, gas and electrical systems shall be made prior to covering or concealment, before fixtures or appliances are set or installed, and prior to framing inspection.

Exception:

Ground-source heat pump loop systems tested in accordance with Section M2105.1 shall

be permitted to be backfilled prior to inspection.

R109.1.4 Frame and masonry inspection. Inspection of framing and masonry construction shall be made after the roof is shingled, masonry, all framing, firestopping, draftstopping and bracing are in place and after the plumbing, mechanical and electrical rough inspections are approved.

R109.1.5 Other inspections. In addition to the called inspections above, the building department may make or require any other inspections to ascertain compliance with this code and other laws enforced by the building department.

R109.1.5.1 Fire-resistance-rated construction inspection. Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after all lathing and/or wallboard is in place, but before any plaster is applied, or before wallboard joints and fasteners are taped and finished.

R109.1.5.2 Waterproofing inspection. Effective October 20, 2003, a waterproofing inspection will be required for all dwellings with basements. The inspection will be required before the basement is backfilled.

R109.1.6 Final inspection. Final inspection shall be made after the permitted work is complete and prior to occupancy including all other agency approvals.

Exception

1. If Group I soils, as determined by the Unified Soils Classification System (USCS) are present from grade to the depth of the footing, waterproofing is not required.
2. If the bottom of the basement floor is located 1 foot above the seasonal high water table, waterproofing will not be required.

R109.2 Inspection agencies. The building official is authorized to accept reports of approved agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

R109.3 Inspection requests. It shall be the duty of the person doing the work authorized by a permit to notify the building official that such work is ready for inspection. It shall be the duty of the person requesting any inspections required by this code to provide access to and means for inspection of such work.

R109.4 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building 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 an agent of the permit holder wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

SECTION R110 CERTIFICATE OF OCCUPANCY

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid.

R110.2 Change in use. Changes in the character or use of an existing structure shall not be made except as specified in Sections 3405 and 3406 of the International Building Code.

R110.3 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the Division of Inspections & Enforcement, the building official shall issue a certificate of occupancy which shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. If an automatic sprinkler system is provided.
9. Any special stipulations and conditions of the building permit.

R110.4 Temporary occupancy. The building 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 building official shall set a time period during which the temporary certificate of occupancy is valid.

R110.5 Revocation. The building official shall, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

SECTION R111 SERVICE UTILITIES

R111.1 Connection of service utilities. No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required.

R111.2 Temporary connection. The building official shall have the authority to authorize and approve the temporary connection of the building or system to the utility source of energy, fuel or power.

R111.3 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section R102.4 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without the approval required by Section R111.1 or R111.2. The building official shall notify the serving utility and whenever 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 disconnection. The owner or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

SECTION R112 BOARD OF APPEALS

R112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The building official [or representative] shall be an ex officio member of said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

112.1.1 Application for appeals. Any application for appeal shall be in writing and shall be received by the Code Official within ten (10) days of receipt of the written decision of the Code Official.

R112.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

112.3.1 Appointment. During the term of the appointment of a member of the Kent County Board of Appeals properly appointed, any change of residency from within that Levy Court district to a different Levy Court district will have no affect on the validity of the appointment, and the person so appointed may continue to serve until they resign or the appointing Levy Court Commissioner or their successor appoints a new person for that district. Failure to reside in Kent County, DE shall be automatic resignation.

R112.4 Administration. The building official shall take immediate action in accordance with the decision of the board.

SECTION R113 VIOLATIONS

R113.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, placed, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

R113.2 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, placement, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

R113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction 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 in violation of the provisions of this code or of the order or direction made pursuant thereto.

R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be charged with a violation of this section and shall be fined according to the following schedule: \$100.00 for any first offense; \$250.00 for any second offense; \$500.00 for any third offense; and no less than \$1,000.00 nor more than \$10,000.00 for any fourth and subsequent offense, or by imprisonment not exceeding ten (10) days, or both such fine and imprisonment. Repeat offenders shall not receive warnings and shall instead be subject to progressively increasing fines according to the foregoing schedule. Each day that any violation continues shall constitute a separate offense. The \$100.00 minimum fine is mandatory and not subject to suspension. Each day that a violation continues it shall be deemed a separate offense. If there are any health and safety risks, then an appeal to the Kent County Community Board of Appeals shall not operate as a stay of any administrative or enforcement action taken by the Department to correct these risks, unless together the Chairman of said Board and the Department Director jointly agree to the stay. Said agreement will be in writing with the copies presented to said Board.

SECTION R114 STOP WORK ORDER

R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

R114.2 Authority. Whenever the building official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or Policy 34, Stop Work Order under Chapter A210 of the Kent Code effective April 25, 1990, and any other codes enforced by Kent County ordinances. in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

R114.3 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

R114.4 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person misdirected to perform to remove a violation or unsafe condition, shall be charged with a violation of this section and shall be fined according to the following schedule: \$100.00 for any first offense; \$250.00 for any second offense; \$500.00 for any third offense; and no less than \$1,000.00 nor more than \$10,000.00 for any fourth and subsequent offense. Repeat offenders shall not receive warnings and shall instead be subject to progressively increasing fines according to the foregoing schedule. Each day that any violation continues shall constitute a separate offense.

Part II - Definitions

CHAPTER 2 DEFINITIONS

Adopted without changes or additions.

Part III - Building Planning and Construction

CHAPTER 3 BUILDING PLANNING

Delete Table R301.2(1) and insert Table 301.2(1)

Table 301.2(1)

Ground Snow Load	Wind	Seismic Design Category	Subject To Damage From				WINTER DESIGN TEMP ^f	FLOOD HAZARD ^h
	Speed ^e (mph)		Weathering ^a	Frost Line Depth ^b	Termite ^c	Decay ^d		
15 psf	90-100	A	Severe	24 inches	Yes	Moderate to Severe	14	May 5, 2003

R314.2 Treads and risers. The maximum riser height shall be $7\frac{3}{4}$ [8 1/4] inches (196 mm) and the minimum tread depth shall be 40 [9] inches (254 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2-percent slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R314.2.1 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19.1 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees from the vertical.

Exceptions:

1. A nosing is not required where the tread depth is a minimum of 11 inches (279 mm).
2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.

R315.1 Handrails. Handrails having minimum and maximum heights of 34 inches and 38 inches (864 mm and 965 mm), respectively, measured vertically from the nosing of the treads, shall be provided on at least one side of stairways. All required handrails shall be continuous the full length of the stairs with four or more risers from a point directly above the top riser of a flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches (38 mm) between the wall and the handrail.

Exceptions:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.
2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

R317.1.1 Alterations, repairs and additions. When one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with smoke alarms located as required for new dwellings; the smoke alarms shall be interconnected and hard wired.

Exceptions:

1. Smoke alarms in existing areas shall not be required to be interconnected and hard wired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for hard wiring and interconnection without the removal of interior finishes.
2. Repairs to the exterior surfaces of dwellings are exempt from the requirements of this section.

R325.1 Premises identification. Approved numbers or addresses shall be provided for all buildings in such a position as to be plainly visible and legible from the street or road fronting the property. The letters shall be a minimum of 1/2" inch wide x 3 inch high of contrasting background.

CHAPTER 4 FOUNDATION

R403.1.1.1 Minimum footing sizes. Minimum thickness of a footing shall be the nominal width of the wall but not less than 8 inches. The nominal width of the footings shall be twice the nominal thickness of the wall. Two story sections of a building shall have a minimum footing width of 24 inches and a minimum footing depth of 10 inches. Pier and column footings shall be 24 inch x 24 inch x 12 inch concrete

Exceptions:

1. Footings for single story decks with 4" x 4" posts shall be a minimum of 8 inches in diameter, footings for single story decks with 6" x 6" post shall be a minimum of 12 inches in diameter and all footings shall extend 24 inches below grade and shall have 8 inches of concrete to support each post.
2. Footings for pole buildings shall be three times the nominal width of the vertical support member in width, and shall extend 36 inches below grade, and have 8 inches of concrete to support each post.
3. Decks having vertical members spaced 6 feet on center may be placed on a 4 inch concrete pad provided the vertical members are placed 1 foot inside the perimeter of the pad and are anchored on 4 corners with approved anchoring devices.
4. Residential accessory structures 300 square feet in area or less, with the exception of a pole building and garage, shall be leveled and secured with tie-downs or equivalent manufactured home fastening devices, one each corner. Structures 20 feet or more in length shall have two additional anchors installed one each side mid-span. All lumber and wood siding is to be pressure treated from grade to 8 inches above finished grade.
5. Prefabricated room enclosures are to be placed on an approved support system of foundation per the manufacturer's installation instructions.
6. A garage and/or similar structures containing room(s) above grade or slab shall be considered a

single story in terms of footing design. Additional floors with weight bearing on exterior walls shall have the footing design for two story structures.

R403.4 Footing reinforcement. Footings shall be reinforced with a minimum of two #4 rebar wired together with a minimum 15 inch overlap. Column footings shall be reinforced with 3 pieces of #4 rebar wired together in two directions.

R405.2.3 Drainage system. In other than Group I soils, a sump shall be provided to drain the porous layer and footings. The sump shall be at least 24 inches (610 mm) in diameter or 20 inches square (0.0129 m²), shall extend at least 24 inches (610 mm) below the top of the basement floor and shall be capable of positive gravity or mechanical drainage to remove any accumulated water. The drainage system shall discharge into a dry well or to daylight. Either system must be located a minimum of 10 feet from the dwelling

CHAPTER 5 FLOORS

R505.2.3 Floor Cantilevers. Floor cantilever spans shall not exceed the nominal depth of the wood floor joist. Floor joist cantilevers constructed in accordance with Table 502.3.3 of the 2002 Accumulative Supplement to the International Codes. shall be permitted when supporting a light-frame bearing wall and roof only. The ratio of backspan to cantilever span shall be at least 3 to 1.

Insert Table R502.3.3 of the 2002 Accumulative Supplement to the International Codes

TABLE 502.3.3
CANTILEVER SPANS FOR FLOOR JOIST
SUPPORTING LIGHT-FRAME EXTERIOR BEARING WALL AND ROOF ONLY ^{a, b, c, f, g, h}
 (Floor Live Loads ≤ 40 psf, Roof Live Load ≤ 20 psf)

ER & G	MAXIMUM CANTILEVER SPAN (Uplift Force at Cantilever Support in Lbs.) ^{d,e}											
	Ground Snow Load											
	≤20 psf			30 psf			50 psf			70 psf		
	Roof Width			Roof Width			Roof Width			Roof Width		
	24 ft.	32 ft.	40 ft.	24 ft.	32 ft.	40 ft.	24 ft.	32 ft.	40 ft.	24 ft.	32 ft.	40 ft.
12"	20" (177)	15" (227)		18" (209)								
16"	29" (228)	21" (297)	16" (364)	26" (271)	18" (354)		20" (375)					
12"	36" (166)	26" (219)	20" (270)	34" (198)	22" (263)	16" (324)	26" (277)			19" (356)		
16"		32" (287)	25" (356)	36" (263)	29" (345)	21" (428)	29" (367)	20" (484)		23" (471)		
12"		42" (209)	31" (263)		37" (253)	27" (317)	36" (271)	27" (358)	17" (477)	31" (384)	19" (462)	
8"		48" (136)	45" (169)		48" (164)	38" (206)		40" (233)	26" (294)	36" (230)	29" (304)	18" (379)

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.479 kN/m²

Notes:

- ^{a.} Tabulated values are for clear-span roof supported solely by exterior bearing walls.
- ^{b.} Spans are based on No. 2 Grade lumber of Douglas fir-larch, hem-fir, southern pine, and spruce-pine-fir for repetitive (3 or more) members.
- ^{c.} Ratio of backspan to cantilever span shall be at least 3:1.
- ^{d.} Connections capable of resisting the indicated uplift force shall be provided at the backspan support.
- ^{e.} Uplift force is for a backspan to cantilever span ratio of 3:1. Tabulated uplift values are permitted to be reduced by multiplying by a factor equal to 3 divided by the actual backspan ratio provided (3/backspan ratio).
- ^{f.} See Section R301.2.2.7.1 for additional limitations on cantilevered floor joist for detached one- and two-family dwellings in Seismic Design Categories D₁, and D₂ and townhouses in Seismic Design Categories C, D₁, and D₂.
- ^{g.} A full-length rim joist shall be provided at the cantilevered end of the joist. Solid Blocking shall be provided at the cantilevered support.
- ^{h.} Linear interpolation shall be permitted for buildings widths and ground snow loads other than shown.

CHAPTER 6 WALL CONSTRUCTION

Adopted without changes or additions.

CHAPTER 7 WALL COVERING

Adopted without changes or additions.

CHAPTER 8 ROOF-CEILING CONSTRUCTION

Adopted without changes or additions.

CHAPTER 9 ROOF ASSEMBLIES

Adopted without changes or additions.

CHAPTER 10 CHIMNEYS AND FIREPLACES

R1001.1.1.2 Anchorage. Masonry fireplaces shall be anchored to the supporting wall with corrosion-resistant metal ties. Where veneer is anchored to wood backings through the use of corrugated sheet metal ties, the distance separating the veneer from the sheathing material shall be a maximum of 1 inch (25.4 mm). Where the veneer is anchored to wood backings through the use of metal strand wire ties, the distance separating the veneer from the sheathing material shall be a maximum of 4½ inches (114 mm). Where the veneer is anchored to cold-formed steel backings, adjustable metal strand wire ties shall be used. Where veneer is anchored to cold-formed steel backings, the distance separating the veneer from the sheathing material shall be a maximum of 4.5 inches (114 mm).

R1001.1.1.2.1 Size and spacing. Veneer ties, if strand wire, shall not be less in thickness than No. 9 U.S. gage wire and shall have a hood embedded in the mortar joint, or if sheet metal, shall be not less than No. 22 U.S. gage by 7/8 inch (22.3 mm) corrugated. Each tie shall be spaced not more than 24 inches (610 mm) on center horizontally and shall support not more than 3¼ square feet (0.302 m²) of wall area.

Part IV Energy Conservation

**CHAPTER 11
ENERGY EFFICIENCY**

Adopted without changes or additions.

Part V - Mechanical

**CHAPTER 12
MECHANICAL ADMINISTRATION**

Adopted without changes or additions.

**CHAPTER 13
GENERAL MECHANICAL SYSTEM REQUIREMENTS**

Adopted without changes or additions.

**CHAPTER 14
HEATING AND COOLING EQUIPMENT**

Adopted without changes or additions.

**CHAPTER 15
EXHAUST SYSTEMS**

Adopted without changes or additions.

**CHAPTER 16
DUCT SYSTEMS**

M1601.4.6 Length limited. Flex air connectors and flexible ducts shall not be used to make turns 90 degree or more.

M1601.4.7 Concealed locations. Flexible non-metalic ducts shall not be installed in concealed locations.

M1602.5 Required locations. In all dwelling units, return air grilles shall be provided in each bedroom, living room, dining room, and family room unless such rooms are openly connected and at the same level. Return openings shall be capable of returning air approximately equal to the supply and ducted back to the furnace.

**CHAPTER 17
COMBUSTION AIR**

Adopted without changes or additions.

CHAPTER 18

CHIMNEYS AND VENTS

Adopted without changes or additions.

**CHAPTER 19
SPECIAL FUEL-BURNING EQUIPMENT**

Adopted without changes or additions.

**CHAPTER 20
BOILERS/WATER HEATERS**

Adopted without changes or additions.

**CHAPTER 21
HYDRONIC PIPING**

Adopted without changes or additions.

**CHAPTER 22
SPECIAL PIPING AND STORAGE SYSTEMS**

Adopted without changes or additions.

**CHAPTER 23
SOLAR SYSTEMS**

Adopted without changes or additions.

Part VI - Fuel Gas

**CHAPTER 24
FUEL GAS**

Adopted without changes or additions.

Part VII - Plumbing

Deleted in its entirety. Refer to current adopted State Plumbing Code.

**CHAPTER 25
PLUMBING ADMINISTRATION**

Deleted in its entirety.

**CHAPTER 26
GENERAL PLUMBING REQUIREMENTS**

Deleted in its entirety.

**CHAPTER 27
PLUMBING FIXTURES**

Deleted in its entirety.

**CHAPTER 28
WATER HEATERS**

Deleted in its entirety.

**CHAPTER 29
WATER SUPPLY AND DISTRIBUTION**

Deleted in its entirety.

**CHAPTER 30
SANITARY DRAINAGE**

Deleted in its entirety.

**CHAPTER 31
VENTS**

Deleted in its entirety.

**CHAPTER 32
TRAPS**

Deleted in its entirety.

PART VIII - Electrical

Deleted in its entirety. Refer to current adopted State Electrical Code.

**CHAPTER 33
GENERAL REQUIREMENTS**

Deleted in its entirety.

**CHAPTER 34
ELECTRICAL DEFINITIONS**

Deleted in its entirety.

**CHAPTER 35
SERVICES**

Deleted in its entirety.

**CHAPTER 36
BRANCH CIRCUIT AND FEEDER REQUIREMENTS**

Deleted in its entirety.

**CHAPTER 37
WIRING METHODS**

Deleted in its entirety.

**CHAPTER 38
POWER AND LIGHTING DISTRIBUTION**

Deleted in its entirety.

**CHAPTER 39
DEVICE AND LIGHTING FIXTURES**

Deleted in its entirety.

**CHAPTER 40
APPLIANCE INSTALLATION**

Deleted in its entirety.

**CHAPTER 41
SWIMMING POOLS**

Used as reference only. Inspections shall be conducted by a third party agency under the current State adopted code.

CHAPTER 42

CLASS 2 REMOTE-CONTROL, SIGNALING AND POWER LIMITED CIRCUITS

Deleted in its entirety.

Part IX - Referenced Standards

**CHAPTER 43
REFERENCED STANDARDS**

Adopted without changes or additions.

Appendices

APPENDIX G

AG105.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 4 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).