



Section 1.

That a certain document, 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 the International Building Code, including Appendix Chapters E-Supplementary Accessibility Requirements, F-Rodent Proofing, I-Patio Covers, and J-Supplementary Accessibility Requirements for Qualified Historic Buildings and Facilities., as published by the International Code Council, Inc., be and is hereby adopted as the Building Code of [Kent County], in the State of Delaware ; for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2.

The following sections are hereby revised:

Section 101.1. Kent County, Delaware

Section 1612.3. Kent County, Delaware

Section 1612.3. May 5, 2003

Section 3409.2. Insert: June 1, 1975

Section 3.

That Chapter 105, Article §105-1, of the Kent County Code, entitled BOCA Building Code is hereby repealed and replaced in its entirety with the International Building Code 2000 and accompanying supplement.

Section 4.

That nothing in this ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5.

That the [Kent County Levy Court Administrative Office] shall certify to the adoption of this ordinance, and cause the same to be published as required by law; and this ordinance shall take effect and be in force from and after its approval as required by law.

**CHAPTER 1
ADMINISTRATION**

Delete Chapter 1 in entirety; replace as follows:

**SECTION 101
GENERAL**

101.1 Title. These regulations shall be known as the Building Code of Kent County, hereinafter referred to as “this code.”

101.2 Scope. The provisions of the International Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

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

101.2.1 Appendices. Provisions in the appendices shall not apply unless specifically adopted.

101.3 Intent. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Electrical. The provisions of the ICC Electrical Code shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

101.4.2 Gas. The provisions of the International Fuel Gas Code shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. 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.

101.4.3 Mechanical. The provisions of the International Mechanical Code shall apply to the installation, alterations, repairs, and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators, and other energy-related systems.

101.4.4 Plumbing. The provisions of the International Plumbing Code shall apply to the installation, alterations, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the International Private Sewage Disposal Code shall apply to private sewage disposal systems.

101.4.5 Property maintenance. The provisions of the International Property Maintenance Code shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety, hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

101.4.6 Fire prevention. The provisions of the International Fire Code shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from

occupancy or operation.

101.4.7 Energy. The provisions of the International Energy Conservation Code shall apply to all matters governing the design and construction of buildings for energy efficiency.

SECTION 102 APPLICABILITY

102.1 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.

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

102.3 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.

102.4 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.

102.5 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.

102.6 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.

SECTION 103 DIVISION OF INSPECTIONS & ENFORCEMENT

103.1 Creation of enforcement agency. The Division of Inspections & Enforcement is hereby created and the official in charge thereof shall be known as the building official.

103.2 Empowerment. The building official shall be hired by the Director of Planning Services and sworn in by the Levy Court of Kent County.

103.3 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. For the maintenance of existing properties, see the International Property Maintenance Code.

SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL.

104.1 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 compliance 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.

104.2 Applications and permits. The building official shall receive applications, review construction documents and issue permits for the erection, and 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 code.

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

104.4 Inspections. The building official shall 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.

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

104.6 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 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.

104.7 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 retention of public records.

104.8 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.

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

104.9.1 Used materials and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

104.10 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, upon application of the owner or owner's representative, 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, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

104.11 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 in quality, strength, effectiveness, fire resistance, durability and safety.

104.11.1 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 105 PERMITS

105.1 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.

105.1.1 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 therefore 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.

105.1.2 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.

105.1.3 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.

105.1.4 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.

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

105.1.6 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.

105.2 Work exempt from permit. Exemptions from 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. Permits shall not be required for the following:

Building:

1. Retaining walls which are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
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 grade and not over any basement or story below and which are not part of an accessible route.
4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
5. Temporary motion picture, television and theater stage sets and scenery.
6. Prefabricated swimming pools accessory to Group R-3 occupancy, as applicable in Section 101.2, which are less than 24 inches (610 mm) deep, do not exceed 5,000 gallons (19,000 L) and are installed entirely above ground.
7. Swings and other playground equipment accessory to one- and two-family dwellings.
8. Window awnings supported by an exterior wall of Group R-3, as applicable in Section 101.2, and Group U occupancies.
9. Movable cases, counters and partitions not over 5 feet 9 inches (1,753 mm) in height.
10. Replacement of any roof sheathing less than 25% of the roof area.

Electrical:

Repairs and maintenance:

Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Radio and television transmitting stations:

The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, the installations of towers and antennas.

Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

1. Portable heating appliance.
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 equipment;
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 part which does not alter its approval or make it unsafe;
6. Portable evaporative cooler;
7. Self-contained refrigeration system containing 10 pound (4.54 kg) or less of refrigerant and 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.

105.2.1 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.

105.2.2 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 standpipe, 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.

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

105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefore 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 106.3.
5. State the valuation of the proposed work.
6. Be signed by the 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.

105.3.1 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 therefore. 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 therefore as soon as practicable.

105.3.2 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 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.4 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.

105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site 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 thirty dollars (\$30.00).]

[**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.]

105.6 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. If after the expiration of the permit shall become null and void and the permit shall be the same as though it had never been issued.]

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

SECTION 106
CONSTRUCTION DOCUMENTS

106.1 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. The construction documents shall be prepared by a registered design professional, currently licensed in the State of Delaware with either the Delaware Association of Professional Engineers as a Professional Engineer or with the State of Delaware Division of Professional Registration as a Registered Architect. The construction documents shall include the name and address of the registered design professional and shall be signed, sealed and dated by the registered design professional in accordance with the registration laws of the State of Delaware. 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. Commercial accessory structures, two (2) unit maximum per property (total combined square footage not to exceed 300 square feet), shall be used exclusively for low hazard storage purposes. Structures shall be leveled and secured with tie down or equivalent of manufactured home fastening devices; one (1) anchor installed each corner. Structures 20 feet or more in length shall have two additional anchors installed; one on each side mid-span. All lumber and wood siding is to be pressure treated from grade to 8 inches above finished grade.

3. Farm structures used exclusively for farm use.

4. 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.

106.1.1 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 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.

106.1.1.1 Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

NOTE: This section will only apply at such time as the State Fire Marshal's Office ceases to function as the department having jurisdiction for this type of plan review and approval.

106.1.2 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 code. In other than occupancies in Groups R-2 and R-3 as applicable in Section 101.2 and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

106.1.3 Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including 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 weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

106.2 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing ~~to scale~~ the size and location of new construction and existing structures on the site, distances from lot lines, and it shall be drawn in accordance with an accurate boundary line map. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building 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.

106.2.1 Additional requirements. At such time a site plan is required for zoning, that site plan shall accompany the permit application.

106.3 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.

106.3.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." 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 authorized representative.

106.3.2 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.

106.3.3 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.

106.3.4 Design professional in responsible charge.

106.3.4.1 General. When it is required that documents be prepared by a registered design professional, the building 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 building 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. 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. Where structural observation is required by Section 1709, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. See also duties specified in Section 1704.

106.3.4.2 Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period. Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official. Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building 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 building official.

106.4 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.

106.5 Retention of construction documents. One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

SECTION 107 TEMPORARY STRUCTURES AND USES

107.1 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).

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

107.3 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.

107.4 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 108 FEES

108.1 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.

108.2 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.]

108.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building 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 building official. Final building permit valuation shall be set by the building official.

[**108.3.1 Evaluation.** When deemed necessary, Marshall & Swift Valuation Service will be used to cost out the project.]

108.4 Work commencing before permit issuance. 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.**

108.5 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.

108.6 Refunds. Refunds shall only be issued in circumstances where Division staff were in error.

SECTION 109 INSPECTIONS

109.1 General. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

109.2 Preliminary inspection. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

109.3 Required inspections. The building official, upon notification, shall make the inspections set forth in Sections 109.3.1 through 109.3.10.

109.3.1 Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. 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.

109.3.2 Concrete slab or under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

109.3.3 Lowest floor elevation. The elevation certification required in Section 1612.5 shall be submitted to the building official.

109.3.4 Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

109.3.5 Lath or gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

Exception: Gypsum board that is not part of a fire- resistive assembly or a shear assembly.

109.3.6 Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

109.3.7 Energy efficiency inspections. Inspections shall be made to determine compliance with Chapter 13 and shall include, but not be limited to, inspections for: envelope insulation R and U value, fenestration U value, duct system R value, and HVAC and water heating equipment efficiency.

109.3.8 Other inspections. In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the Division of Inspections & Enforcement.

109.3.9 Special inspections. For special inspections, see Section 1704.

109.3.10 Final inspection. The final inspection shall be made after all work required by the building permit is completed including all other agency approvals.

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

109.5 Inspection requests. It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building 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 code.

109.6 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 110 CERTIFICATE OF OCCUPANCY

110.1 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 therefore 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.

110.2 Change in use. Changes in the character or use of an existing structure shall not be made except as specified in Chapter 34.

110.3 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 that 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 for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

110.4 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.

110.5 Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion 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 111 SERVICE UTILITIES

111.1 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.

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

111.3 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 codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building 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 in writing, as soon as practical thereafter.

SECTION 112 BOARD OF APPEALS

112.1 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 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.

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.

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

112.3 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 Adjustments 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.

SECTION 113 VIOLATIONS

113.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, [place], 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.

113.2 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, [placement], construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, 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.

113.3 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.

113.4 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, [places], 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 114 STOP WORK ORDER

114.1 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 Kent County Zoning Ordinances, 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.

114.2 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.

114.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be 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.

SECTION 115

UNSAFE STRUCTURES AND EQUIPMENT

115.1 Conditions. 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 and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

115.2 Record. The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

115.3 Notice. If an unsafe condition is found, the building 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 to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

115.4 Method of service. Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

115.5 Restoration. The structure or equipment determined to be unsafe by the building 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 Section 105.2.2 and Chapter 34.

SECTION 116 CONTRACTORS LICENSE

116.1 Contractors license. All contractors shall possess a current business license with the State of Delaware.

CHAPTER 2 DEFINITIONS

Adopted without changes or additions.

CHAPTER 3
USE AND OCCUPANCY CLASSIFICATION

312.1 General. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

- Agricultural buildings
- Aircraft hangars, accessory to a one- or two-family residence (See Section 412.3)
- Barns
- Carports
- Fences more than 6 feet (1829 mm) high
- Grain silos, accessory to a residential occupancy
- Greenhouses
- Livestock shelters
- Private garages
- Retaining walls
- Sheds
- Stables
- Tanks
- Towers

[**Exception.** All farm buildings except dwellings, used exclusively for farming or agriculture of any nature, as referenced in 9 Delaware Code, Chapter 83, § 8330, § 8331, § 8332, are exempt from the Kent County Building Code, except that a plot plan be provided showing the location of the building to be constructed and Agricultural Building Use Permit be obtained from the Kent County Division of Inspections and Enforcement at the cost of the base administrative fee as approved by the Kent County Levy Court.]

CHAPTER 4
SPECIAL DETAILED REQUIREMENTS BASED ON USE OR OCCUPANCY

Adopted without changes or additions.

CHAPTER 5
GENERAL BUILDING HEIGHTS AND AREAS

Adopted without changes or additions.

CHAPTER 6

TYPES OF CONSTRUCTION

Adopted without changes or additions.

CHAPTER 7
FIRE-RESISTANCE-RATED CONSTRUCTION

Adopted without changes or additions.

CHAPTER 8
INTERIOR FINISHES

Adopted without changes or additions.

CHAPTER 9
FIRE PROTECTION SYSTEMS

Adopted without changes or additions.

CHAPTER 10
MEANS OF EGRESS

Adopted without changes or additions.

CHAPTER 11
ACCESSIBILITY

Adopted without changes or additions.

CHAPTER 12
INTERIOR ENVIRONMENT

Adopted without changes or additions.

CHAPTER 13
ENERGY EFFICIENCY

Adopted without changes or additions.

CHAPTER 14

EXTERIOR WALLS

Adopted without changes or additions.

CHAPTER 15 ROOF ASSEMBLIES AND ROOF STRUCTURES

Adopted without changes or additions.

CHAPTER 16 STRUCTURAL DESIGN

1612.3 Establishment of flood hazard areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for [Kent County]," dated May 5, 2003, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

CHAPTER 17 STRUCTURAL DESIGNS

Adopted without changes or additions.

CHAPTER 18 SOILS AND FOUNDATIONS

Adopted without changes or additions.

CHAPTER 19 CONCRETE

Adopted without changes or additions.

CHAPTER 20 ALUMINUM

Adopted without changes or additions.

CHAPTER 21
MASONRY

Adopted without changes or additions.

CHAPTER 22
STEEL

Adopted without changes or additions.

CHAPTER 23
WOOD

Adopted without changes or additions.

CHAPTER 24
GLASS AND GLAZING

Adopted without changes or additions.

CHAPTER 25
GYPSUM BOARD AND PLASTER

Adopted without changes or additions.

CHAPTER 26
PLASTIC

Adopted without changes or additions.

CHAPTER 27
ELECTRICAL

Adopted without changes or additions.

CHAPTER 28
MECHANICAL SYSTEMS

Adopted without changes or additions.

CHAPTER 29
PLUMBING SYSTEMS

Adopted without changes or additions.

CHAPTER 30
ELEVATORS AND CONVEYING SYSTEMS

Adopted without changes or additions.

CHAPTER 31
SPECIAL CONSTRUCTION

3109.4 Residential swimming pools. Residential swimming pools shall comply with Sections 3109.4.1 through 3109.4.3.

Exception: A swimming pool with a power safety cover or a spa with a safety cover complying with ASTM F 1346 .

3109.4.1 Barrier height and clearances. 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 \geq [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 the barrier is authorized to be at ground level or 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).

CHAPTER 32
ENCROACHMENT INTO THE PUBLIC RIGHT-OF-WAY

Adopted without changes or additions.

CHAPTER 33
SAFEGUARDS DURING CONSTRUCTION

Adopted without changes or additions.

CHAPTER 34
EXISTING STRUCTURES.

3409.2 Applicability. Structures existing prior to June 1, 1975. Note: it is recommended that this date coincide with the effective date of building codes within the jurisdiction, in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this section or the provisions of Sections 3402 through 3406.

The provisions in Sections 3409.2.1 through 3409.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

CHAPTER 35
REFERENCE STANDARDS

Adopted without changes or additions.

RESERVED FOR FUTURE USE

2000 INTERNATIONAL RESIDENTIAL CODE