

INTRODUCED BY: Eric L. Buckson
DATE INTRODUCED: July 23, 2019
PUBLIC HEARING DATE: September 24, 2019
PUBLIC HEARING TIME: 7:00 p.m.
ADOPTION DATE: _____
EFFECTIVE DATE: Upon Adoption

Ordinance LC19-19
Amendments to Chapter 205 (Zoning)

An Ordinance to amend Kent County Code, Vol. II, Chapter 205, Zoning, as amended by revising language throughout Chapter 205, Zoning, and revising the following sections: Article I, §205-4, Interpretation; Article II, §205-6, Definitions; and, Article XXVII, §205-404, Administrative Variance, for the purpose of designating the County Administrator as the staff level administrative decision making authority for Kent County Code, Chapter 205.

THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. That the Kent County Code, Vol. II, Chapter 205, Zoning, is hereby amended by deleting the word “Administrator” wherever it appears throughout Chapter 205, and inserting the word “Director” in place thereof.

Section 2. That the Kent County Code, Vol. II, Chapter 205, Zoning, Article I, §205-4, Interpretation is hereby amended by adding the following underlined language in the correct alphabetical order in accordance with this Section:

D. The County Administrator is authorized to interpret the meaning of any provision contained in this Chapter, to render official administrative determinations thereof on behalf of the County, and to enforce the application of any provision contained herein.

Section 3. That the Kent County Code, Vol. II, Chapter 205, Zoning, Article II, §205-6, Definitions is hereby amended by adding the following underlined language in the correct alphabetical order in accordance with this Section and deleting the bracketed language shown with strike through marks:

[ADMINISTRATOR

~~The resident professional staff of the Regional Planning Commission.]~~

COUNTY ADMINISTRATOR – The person appointed by Kent County Levy Court to serve as the Chief Administrative Officer for Kent County, Delaware.

DIRECTOR – The person appointed to serve as the Director of Planning Services.

~~[ORDINANCE ADMINISTRATOR~~

~~The Director of Planning Services or his/her designee.]~~

Section 4. That the Kent County Code, Vol. II, Chapter 205, Zoning, Article IV, §205-15, Application of Regulations; Prohibition of Use Not Addressed, is hereby amended by adding the following underlined language in the correct alphabetical order in accordance with this Section and deleting the bracketed language shown with strike through marks:

§ 205-15 Application of regulations; prohibition of use not addressed.

A. The Director or designee shall administer the day to day application of these regulations and shall report to and take direction from the County Administrator. The County Administrator shall have direct management and decision-making authority over the Department of Planning Services.

~~[A]~~B. A structure or parcel of land in the County may not be used, designed, constructed or altered in any manner inconsistent with this chapter.

~~[B]~~C. Any use which is not specifically listed as a permitted or conditional use in any zoning district shall be identified within the Standard Industrial Classification Manual and placed within the proper zoning category. The proper zoning district shall be found by identifying the major use division in which the use is located and by placing the use in the district in which uses in the specific major use division are listed as permitted in that district

Section 5. That the Kent County Code, Vol. II, Chapter 205, Zoning, Article XXVII, §205-404, Administrative variance, §205-404.H. is hereby amended by adding the following underlined language and deleting the bracketed language shown with strike through marks:

H. The decision of the Director of Planning Services shall be appealable to the ~~[Board of Adjustment]~~ the County Administrator who may uphold or overturn the decision of the Director after review and consideration. For any such appeal filed with the County Administrator, the County Administrator shall issue a written determination of Final Administrative Decision. Any applicant who may be aggrieved a Final Administrative Decision may appeal such decision to the Board of Adjustment for consideration in accordance with the provisions of §205-400.

Section 6. Severability.

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or in violation of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 5. Effective Date.

This Ordinance shall be effective upon the date of adoption.

ADOPTED BY THE LEVY COURT OF KENT COUNTY,
DELAWARE

President, Kent County Levy Court

This _____ day of _____, 20__

ATTEST: _____
Clerk of the Peace

SYNOPSIS

This Amendment to Chapter 205 establishes the administrative decision-making authority of the County Administrator for all aspects and application of provisions of Chapter 205 (Zoning) of Kent County Code.