

# **INTERNATIONAL BUILDING CODE 2012**

## **CHAPTER 1 ADMINISTRATION**

### **Section 101 Title, is amended and shall read as follows:**

**101.1 Title** These regulations shall be known as the Building Code of the CITY OF WILMINGTON hereinafter referred to as "this code."

### **Section 101 Title, is amended by adding a new subsection and shall read as follows:**

#### **101.1.1 Terms,**

Whenever, in this building code, a jurisdiction is mentioned without name, it shall mean the City of Wilmington. Whenever a state is mentioned, it shall mean the State of Delaware. Whenever the term "building official" is mentioned, it shall mean "The Commissioner of Licenses and Inspection or their authorized representative."

### **Section 101.2.1 Appendices, is amended by adding the following appendix:**

Provisions in the appendices shall not apply unless specifically adopted.

*The City of Wilmington will adopted*

*Appendix B*

*Appendix E*

*Appendix F*

*Appendix G*

*Appendix I*

*Appendix J*

## **SECTION 103 DEPARTMENT OF BUILDING SAFETY**

### **Section 103.1 Creation of enforcement agency, is amended and shall read as follows:**

The Department of Licenses and Inspections is hereby created and the building official in charge thereof shall be known as the Commissioner of Licenses and Inspections.

### **Section 103.2 Appointment is amended and shall read as follows:**

The building official shall be appointed by Mayor of the City of Wilmington, the chief appointing authority of the jurisdiction.

### **Section 103.3 Deputies is amended and shall read as follows:**

In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Mayor shall have the authority to appoint a deputy building official and the human resources department shall have the authority to select 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 Chapter 34 of the Wilmington City Code and the International Property Maintenance Code.

## **SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL**

### **Section 104.1 General. Is amended by adding new subsection Section 104.1.1 and shall read as follows:**

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.

#### **Section 104.1.1 - General Qualifications of building official:**

The qualifications of the building official and assistants shall be as determined by the Human Resource Department.

#### **Section 104.7 Department records, is amended and shall read as follows:**

Section 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. "Building plans and specifications may, at the discretion of the building official be destroyed three years after the completion of the project, except where retention is mandated to preserve vital records and plans with the state bureau of archives for permanent storage."

#### **Section 104.11 Alternative materials, design and methods of construction and equipment is amended by adding new subsection Section 104.11.3 and shall read as follows: Standing committee; board of standards and appeals and shall read as follows:**

##### **Section 104.11.3 Standing committee; board of Standards and Appeals.**

- (a) Standing committee.
  - (1) There is hereby created a Building Code Standing Committee ("Committee") that shall review all ordinances proposing amendments to the Building Code. The committee is created for the purpose of advising city council on the technical aspects of each such ordinance, by making written recommendations to city council about each ordinance, prior to the meeting of city council's licenses and inspections committee addressing the ordinance. The committee shall be comprised of the Commissioner of Licenses and Inspections ("Commissioner"), who shall serve as the secretary for the committee and provide staff support to the committee, and three other persons to be appointed by the mayor, who shall be one architect, one engineer, and one builder.

- (2) Any ordinance introduced at a city council meeting proposing amendments to the Building Code shall be referred immediately by the law department to the commissioner. The commissioner shall provide copies of the ordinance to the other members of the committee the day after it is introduced. The committee shall meet on the Tuesday or Wednesday following each meeting of city council during which an ordinance proposing amendments to the Building Code is introduced.
  - (3) After the committee has reviewed each such ordinance, the committee shall promptly make its written recommendations about the ordinance, under the signature of the commissioner, including any revisions of the ordinance that the committee deems appropriate, and file the recommendations with the chairman of city council's licenses and inspections committee, with copies provided to all members of city council, city council's legislative staff director, and the law department.
- (b) Board of Standards and Appeals. Pursuant to City Charter Sections 3-904 and 5-707, the board of standards and appeals shall be comprised of the commissioner of licenses and inspections and the architect and the engineer who serve on the standing committee. The member of the standing committee who is a builder shall serve in an advisory capacity to the board of standards and appeals.

## **SECTION 105 PERMITS**

**Section 105.1 Required is amended by deleting section 105.1.1 in its entirety**  
**105.1.1 Annual permit. (Delete)**

**Section 105.1 Required is amended by deleting section 105.1.2 in its entirety**  
**105.1.2 Annual permit records. (Delete)**

**Section 105.2 Work exempt from permit is amended and shall read as follows:**

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:

Permits will be issued only to general contractors with a current City of Wilmington business license, except that permits may be issued to owners, tenants or their authorized agents, for buildings, additions and alterations, not exceeding a cost of \$10,000.00. It shall be unlawful for any of the aforesaid persons to proceed with work without having first obtained the permits required by this code and any other provisions of the Wilmington City Code. No permit shall, however, be required for the following items, subject to the exception as noted:

1. Storm doors (except in city historic districts)
2. Front doors (except in city historic districts)
3. Down spouts
4. Gutters
5. Roof maintenance
6. Dry wall (less than 100 square feet or three sheets, whichever is larger);
7. Floor underlayment
8. Carpeting
9. Interior and exterior painting
10. Windows (except in historic districts or requiring modifying the structural opening)
11. Nonstructural doors (except in historic districts).
12. Installation of plumbing fixtures including faucets, vanities, water closets, tubs, and shut-off valves for water lines
13. Concrete sidewalks located on private property (maximum of 150 sq. ft.)
14. Wrapping of windows and soffits (except in historic districts).
15. Concrete sidewalks and/or concrete slabs located on private property (maximum of 150 sq. ft.)
16. Siding maintenance less than 20 linear feet and a maximum of 5'-0" in height.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, 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.
2. 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.

**Section 105.2.1 Emergency repairs is amended and shall read as follows:**

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. Any persons performing emergency repairs must be a City of Wilmington license holder.

**Section 105.3.1 Action on application is amended by adding new subsection, Section 105.3.1 and shall read as follows:**

**Section 105.3.1.1. Action on application.** The building official shall examine or cause to be examined all 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 all 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 all laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable. In any instance in which the building official considers an application for a building permit upon which there has been a recommendation made to the building official by the design review and preservation commission ("DRPC") and the building official decision is at variance with such recommendation by the DRPC, then no permit shall be issued as a result of a decision by the building official until the expiration of the period of time for the filing of any appeal of the building official's decision directing the building official to issue such permit. Any such appeals from the building official's decision shall proceed as provided in the Zoning Code and in the rules of the zoning board of adjustment and no action shall be taken pursuant to such building permit until there has been a decision by the zoning board of adjustment and the expiration of the 30-day appeal period following such decision.

**Section 105.3.2 Time limitation of application is amended and shall read as follows:**

An application for a permit for any proposed work shall be deemed to have been abandoned 90 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; 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.

**Section 105.4 Validity of permit is amended by adding new subsections Section 105.4.1, Section 105.4.2, Section 105.4.3, Section 105.4.4, Section 105.4.5, Section 105.4.6, Section 105.4.7 and shall read as follows:**

**Section 105.4.1 Issuing permits.** Permits will be issued only to general contractors with a current City of Wilmington business license, except that permits may be issued to owners, tenants or their authorized agents, for buildings, additions and alterations, not exceeding a cost of \$10,000.00. It shall be unlawful for any of the aforesaid persons to proceed with work without having first obtained the permits required by this code and any other provisions of the Wilmington City Code. Work items exempt for permits see Section 105.2.

**Section 105.4.2. Plans.** No permit will be issued for the erection of a new building unless the plans and specifications have been prepared by and have the seal of an architect registered with the state board of architects and licensed by the city, or by a qualified professional engineer registered with the Delaware Association of Professional Engineers and licensed in the city, except:

- (a) Any building not exceeding 2 1/2 stories and 1,500 square feet on the first floor.
- (b) Stores and workrooms, not exceeding one story and 1,500 square feet in floor area.
- (c) Alterations to any building, the cost of which does not exceed \$25,000.00, exclusive of the cost of mechanical equipment and installations, so long as the alterations do not require structural changes involving design or change of structural beams, support, columns or slabs, and the alterations do not, in the opinion of the building official, endanger the life or health of the building's occupants.

**Section 105.4.3. Denial of permit. The building official may deny a permit application for the following reasons:**

- (1) The building official has reason to believe that the work described in the application cannot be performed in a safe and workmanlike manner or within a reasonable time;
- (2) The building official believes that the work described in the permit application cannot be completed in conformance with this code, or other applicable laws;
- (3) The applicant has demonstrated to the building official an inability to complete work described in other permits within a reasonable time or in a safe and workmanlike manner; or
- (4) The applicant has submitted false or misleading information on the application for the permit.

**Section 105.4.4. Denial of demolition permit.** No demolition permit shall be issued for the demolition of any dwelling which is subject to the provisions of the housing code requiring the annual registration of such dwelling and the payment of vacant dwelling registration fees if, as determined by the code official, the dwelling has not been so registered or such registration fees have not been paid; provided, however, the building official may issue a demolition permit if in his judgment the immediate demolition of the dwelling is required for the safety of nearby residents, or in an emergency, or if the code official determines that rehabilitation of such dwelling is not financially feasible. Upon proper registration

of such dwelling and payment of vacant dwelling registration fees, the code official may issue a demolition permit.

**Section 105.4.5. Revocation of permits.** The building official may revoke a permit or approval issued under this code for the following reasons:

- (1) The building official has discovered any false statement or misrepresentation on the application or plans on which the permit or approval was based;
- (2) The building official has reason to believe that the work for which the permit has been taken cannot be completed in a safe and workmanlike manner, or within a reasonable time;
- (3) The building official becomes aware that the permit holder is no longer able to complete the work;
- (4) The building official discovers that the authorized work is not substantially commenced within 90 days after the permit is issued, or that the authorized work is suspended or abandoned, or that no substantial work is performed for a period of 90 days after the work has commenced; or
- (5) The permit or approval was issued in error, or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this code. Further, the issuance or granting of a permit or approval of plans and specifications 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 city. No permit presuming to give authority to violate or cancel any provisions of this code shall be valid.

**Section 105.4.6. "Christmas in April Day" program authorization.** The City of Wilmington, acting through its Department of Real Estate and Housing ("Department") shall be authorized to conduct a "Christmas in April Day" program, to be coordinated by that Department with the Department of Licenses and Inspections, the Finance Department, and other departments to waive building permit fees that are otherwise required by the Building Code, provided that each relevant permit itself is obtained for each of the dwellings that have been selected by the "Christmas in April" program, conducted annually and coordinated on behalf of the City by the Department of Real Estate and Housing for volunteer work to be conducted on a designated day in April each year. Such work may include, but shall not be limited to carpentry, electrical work, painting, roofing, weatherization, trash removal, yard work and similar work to be done in, on or about such designated dwellings. The authorization for waiver of building permit

fees shall apply only to permits for work conducted on the designated "Christmas in April" day and the authorization shall be for that one day.

**Section 105.4.7. City-sponsored housing program authorization.** The City of Wilmington, acting through its Department of Real Estate and Housing ("Department") shall be authorized to conduct a city-sponsored housing program, to be coordinated by that department with the Department of Licenses and Inspections, the Finance Department, and other departments as may be necessary, to waive building permit fees that are otherwise required by the Building Official, provided that each relevant permit itself is obtained for each of the dwellings that are part of the city-sponsored housing program, for dwellings that are being, or will be, constructed or substantially rehabilitated as part of city-sponsored programs, conducted throughout the year and coordinated on behalf of the City by the Department of Real Estate and Housing. Such work may include, but shall not be limited to carpentry, electrical work, painting, new construction or rehabilitation of dwellings in the city-sponsored housing project or program. The authorization for waiver of building permit fees shall apply only to permits for work conducted as part of the city-sponsored housing projects or program.

**Section 105.7 Placement of permit is amended and shall read as follows:**

The building permit or copy shall be kept on the site of the work until the completion of the project. All permits should be posted at the site and visible to the building official and the general public.

**SECTION 107 SUBMITTAL DOCUMENTS**

**Section 107.2. Construction Documents is amended and shall read as follows:**

Construction documents shall be in accordance with Section 107.2.1 through 107.2.5. The application for permit shall be accompanied by not less than three sets of construction documents and a CD with same documents in PDF format. The Code Official is permitted to waive the requirements for filing construction documents when the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to this code, specific information shall be given to establish such quality, and this code shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

**SECTION 108 TEMPORARY STRUCTURES AND USES**

**Section 108.1 General is amended and shall read as follows:**

The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 30 days. The building official is authorized to grant extensions for demonstrated cause.

## **SECTION 109 FEES**

### **Section 109.1 Payment of fees is amended by adding new subsection Section 109.1.1 and shall read as follows:**

#### **Section 109.1.1 Fees.**

- (a) No permit to begin work for new construction, alterations, removal, demolition or other building operation will be issued until the fees prescribed in this section are paid to the City of Wilmington. Should an increase in the estimated cost of work require an additional fee, no amendment to a permit shall be approved until the additional fee and a surcharge of one percent of the increase in the estimated cost of work have been paid.
- (b) Surcharge for failure to obtain a permit. If that work has proceeded without required permits, the Department of Licenses and Inspection will charge a fee of double the cost of the permit fee for work involved in the building improvements, alterations, or additions as determined by the building official shall be imposed at the time of payment of such permit fees. The payment of these fees shall not relieve the applicant or holder of the permit from paying other fees that are required under this article, this chapter, the Wilmington City Code or other applicable laws.

### **Section 109.2 Schedule of permit fees is amended by adding new subsections Section 109.2.1, Section 109.2.2, Section 109.2.3, Section 109.2.4, Section 109.2.5, Section 109.2.6, Section 109.2.7, Section 109.2.8, Section 109.2.9 and shall read as follows:**

**Section 109.2.1 Establishing cost base for permit fee.** Each applicant shall specify the total cost of the proposed building or improvements, including general conditions and contractor fees, all plumbing, electrical and other mechanical work, and including all equipment, devices and other materials that have been or will be incorporated in the project under the applicant's contract regardless of who performs the architectural and engineering services and regardless of who installs such equipment, devices or other materials. The fee for such permit shall be based on the total value of such work, as determined by the code official based upon the estimates submitted by the applicant and the code official's own knowledge, and then shall be calculated in accordance with Section 109.2.3.

**Section 109.2.2. Deposit for collection.** In addition to the fees required by this chapter, no building permit will be issued for demolition, for gutting or probing, or for any similar work on a structure in or immediately adjacent to a residential zone whose cost of work will exceed \$2,000.00, unless the applicant provides satisfactory assurance to the Department of Licenses and Inspections that all refuse and debris generated by the contractor will be removed in a timely manner and also places with the city a deposit bond or guarantee of \$500.00, which sum may be expended by the city to remove any

debris which the applicant may fail to remove upon order of the commissioner of licenses and inspections. The unused portion of the deposit shall be returned to the applicant upon the completion of the work or expiration of the permit at the cleaned site.

**Section 109.2.3. New buildings, additions and alterations.** The fee for every new building or addition or alterations to an existing building shall be based upon the Commissioner's determination of the value of all work involved to complete the project. Permit fee is \$12.00 per every \$1,000.00 rounded up to the next \$1,000.00.

**Section 109.2.3.1 Other fees, generally.** Additional permit fees shall be paid for the following related work in connection with any building permit:

- a. Plumbing.....\$20.00
- b. Heating installation.....\$20.00
- c. Air conditioning system.....\$20.00
- d. Mechanical ventilation.....\$20.00
- e. Electrical work.....\$20.00

**Section 109.2.4. Mechanical equipment.** For all alterations of mechanical equipment that require the filing of a special application, the permit fee shall be based upon the total value of such work, determined under Section 109.2.3. This includes, among others, elevators, dumbwaiters, moving stairways, manlifts, material lifts, automotive lifts, conveyors, brick pointing, sandblasting, termite protection, re-roofing and roof repairs, signs and billboards.

**Section 109.2.5. Demolition of building and structures; housing preservation fees.** Demolition permits will be issued only to general contractors or demolition contractors that have a current City of Wilmington business license, on the payment of a fee of \$100.00 for the first 3,000 square feet of building area and \$50.00 for each additional 3,000 square feet of each structure to be demolished. To obtain such a permit, such contractor must provide evidence of the issuance of a public liability insurance policy that covers bodily injury and property damage liability that is issued by an insurance company authorized to do business in the state in an amount to be determined by the building official.

In addition to and not in lieu of the aforesaid fee, prior to issuance of any demolition permit for any structure which is in whole or in part a residential structure, the general contractor or demolition contractor, as agent for the person, firm, corporation, partnership, association, or other entity who or which owns the structure for the demolition of which the permit is sought, shall pay a 'housing preservation fee' equal to three percent of the estimated fair market value of the structure at the time of application for such demolition permit. The estimated fair market value shall be based upon the assessments for tax purposes maintained by the county board of assessment and adopted for tax purposes by the city pursuant to 22 Del. C. and section 44-31 of the Wilmington City Code.

Payment of the housing preservation fee shall not be required if the demolition is part of an incidental to the construction of a new residential structure or structures on the same lot or land as that on which the structure to be demolished is situate and for which new residential construction plans have been submitted to and approved by the building inspector and a building permit for the same has been obtained; nor shall payment of the aforesaid fee be required prior to any demolition of a residential structure which has been ordered by the department of licenses and inspections for reasons of the public health, safety and welfare; provided, however, that if the costs of such demolition are not paid by the owner or agent for the owner of such structure and are incurred by the city, the housing preservation fee shall be imposed and shall be added to the costs of demolition and become a part of the lien upon such lands and premises upon which the structure was situate. If any building permit for new residential construction on the same lot or premises upon which a demolished residential structure was situate is subsequently revoked, the housing preservation fee shall be imposed upon the owner or agent for the owner of the demolished residential structure.

**Section 109.2.6. Miscellaneous permit fees.**

- a. The fee for temporary building and structures is \$50.00.
- b. Tents for religious, educational or recreational purposes only, and not exceeding 30 days, a fee of \$10.00.
- c. The fee for the annual permit for electrical installations, as provided by Section 2704.3 is \$30.00.

**Section 109.2.7. Inspection of annual license permits.**

Theaters.....	\$ 50.00
Moving picture theaters. ....	\$50.00
Assembly halls. ....	\$50.00

114.3.7. Fees for certificates and applications.

- (a) For certificates of use and occupancy/compliance, the fees shall be as follows:

Dwellings and two-family houses.....	\$100.00
Private accessory buildings.....	\$100.00
All other buildings .....	\$100.00
New construction or alterations where more than one final inspection is requested.....	\$100.00
Open lot auto parking.....	\$100.00
Open lot auto sales .....	\$100.00
Lumberyards .....	\$100.00
Junkyards .....	\$100.00
Premises for other storage uses.....	\$100.00
Change of occupancy .....	\$100.00
Duplicate certificates .....	\$50.00

Certificates requested by owner of an existing building.....	\$100.00
Certificate of compliance .....	\$50.00
Temporary certificate of occupancy Residential	\$100.00
Commercial	\$250.00

- (b) For certificate of registration and operations, the fees shall be as follows:

For certificate of registration .....	\$50.00
For each elevator.....	\$50.00
For each run of moving stairway .....	\$50.00
For each manlift .....	\$50.00
For material lifts, conveyors and power dumbwaiter .....	\$50.00
For duplicate certificates.....	\$25.00

- (c) For applications to the zoning board of adjustment for permission for any purpose, the fees shall be as follows:

For residential property or use, for each requested variance or special exception.....	\$100.00
For commercial property or use.....	\$250.00

- (d) For any appeals to the Board of License and Inspection Review, the nonrefundable fee to be paid at the time of filing of the appeal shall be.....\$50.00

**Section 109.2.8. Satellite television antennae; dish antennae.** A permit for the installation of a satellite television antenna and a permit for the installation of any dish antenna structure pursuant to subsection 622.3 et seq. shall be issued only to satellite television antenna installers, or dish antennae installers, as the case may be, who are licensed by the city upon payment of a fee of \$25.00 for each such antenna to be installed. To obtain such permit, such installer must provide evidence of compliance with the bond and insurance requirements of section 5-97 of the Wilmington City Code. No permit shall be issued to, and no installation, repair, or removal of any satellite television antenna or of any dish antenna shall be done by, any person other than a person, firm, corporation or other entity duly licensed for the same under sections 5-97 and 5-98 of the Wilmington City Code. A conviction of violation of this section shall be punishable by a fine of not less than \$1,000.00.

**Section 109.2.9. Exemptions from permit fees; waiver of permit fees for government buildings.**

- a. A building permit shall be required for work to be done as part of the federal weatherization program, but there shall be an exemption from payment of each permit fee otherwise applicable. Inspection of work performed under such program will be done by the federal government. However, any contractor performing any work as part of such program shall hold a valid city business license and provide the department of licenses and inspections with the address of any property at which location he is working under the program. Similarly, a building permit shall be required for work to be done as part of new construction or improvements to existing structures for federal, state, county or city governmental buildings, but there shall be authorized a waiver of the building permit fees otherwise applicable. Inspection of work performed shall be done by the department of licenses and inspections, except in connection with federal property, in which cases inspection shall be done by the federal government. However, any contractor performing any work as part of any federal, state, county or city building construction or improvements shall hold a valid city business license and provide the department of licenses and inspections with the address of any property owned by federal, state, county or city government at which the contractor is performing any work. Any violation of the provisions of this subsection shall be cause for issuance of a stop work order by the department of licenses and inspections.
- b. **For purposes of this subsection only, "government building" shall mean:**
- i. A building occupied by the city, county, state, or the United States Government, or any other agency or subdivision of the city county, state, or United States Government; or
  - ii. Government building project owned by the City of Wilmington, or by any other municipal corporation, or the State of Delaware, the United States Government wherein:
    - (1) The project is financed in excess of 50 percent by city, county, state or federal funds or any combination thereof; and
    - (2) The project is of or for a governmental or non-profit organization performing public functions to the extent that such are not engaged in residential, commercial, or industrial activities.

**Section 109.6 Refunds, is amended and shall read as follows:**

The code official shall have the authority to charge a plan review fee if the project has been canceled and the code official has reviewed the project in its entirety. The cost of the plan review fee will be determined by the code official and deducted from any fees refunded.

## **SECTION 111 CERTIFICATE OF OCCUPANCY**

### **Section 111.3 Temporary occupancy is amended by adding new subsection, Section 111.3.1 and shall read as follows:**

The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, if 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. Temporary certificate of occupancies maybe issued in 30-day increments.

## **SECTION 112 SERVICE UTILITIES**

No amendments

## **SECTION 113 BOARD OF APPEALS**

### **SECTION 113 BOARD OF APPEAL is amended by adding a new subsection Section 113.4 and shall read as follows:**

#### **Section 113.4 Standing Committee; Board of Standards and Appeals.**

- (a) Standing Committee.
  - (1) There is hereby created a Building Code Standing Committee ("Committee") that shall review all ordinances proposing amendments to the Building Code. The committee is created for the purpose of advising city council on the technical aspects of each such ordinance, by making written recommendations to city council about each ordinance, prior to the meeting of city council's licenses and inspections committee addressing the ordinance. The committee shall be comprised of the commissioner of licenses and inspections ("Commissioner"), who shall serve as the secretary for the committee and provide staff support to the committee, and three other persons to be appointed by the mayor, who shall be one architect, one engineer, and one builder.
  - (2) Any ordinance introduced at a city council meeting proposing amendments to the Building Code shall be referred immediately by the law department to the commissioner. The commissioner shall provide copies of the ordinance to the other members of the committee the day after it is introduced. The committee shall meet on the Tuesday or Wednesday following each meeting of city council during which an ordinance proposing amendments to the Building Code is introduced.
  - (3) After the committee has reviewed each such ordinance, the committee shall promptly make its written recommendations about the ordinance, under the signature of the commissioner, including any revisions of the

ordinance that the committee deems appropriate, and file the recommendations with the chairman of city council's licenses and inspections committee, with copies provided to all members of city council, city council's legislative staff director, and the law department.

- (b) Board of standards and appeals. Pursuant to City Charter sections 3-904 and 5-707, the board of standards and appeals shall be comprised of the Commissioner of Licenses and Inspections and the architect and the engineer who serve on the standing committee. The member of the standing committee who is a builder shall serve in an advisory capacity to the board of standards and appeals.

## **SECTION 114 VIOLATIONS**

### **Section 114.4 Violation penalties is amended by adding new subsection Section 114.4.1 and shall read as follows:**

#### **Section 114.4.1 Violations and penalties.**

- (a) 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 any service equipment or appliance for which a permit is required either without first having obtained that permit, or in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this chapter shall be guilty of a misdemeanor, punishable by a fine of not less than \$250.00 and not more than \$1,000.00 or by imprisonment not exceeding six months, or both such fine and imprisonment, for the first conviction. A corporation may be fined by the court an amount not exceeding \$5,000.00. Each day that a violation continues shall be deemed a separate offense. For any conviction of a violation that is the second conviction for the same violation as a previous violation which has not been corrected, the minimum fine for any person or corporation shall be not less than \$500.00, and not more than \$5,000.00; for the third conviction \$1,000.00, which shall not be suspended; for the fourth conviction \$1,500.00; and for the fifth and subsequent conviction of the same violation that still has not been corrected the minimum fine for each conviction shall be not less than \$5,000.00 which shall not be suspended. Upon conviction of a violation of this chapter, the court may order the defendant to correct the violation by a date certain. If the defendant fails to correct the violation by the court ordered date, the court may impose a fine of \$50.00 per day to be calculated from the date of conviction to the date by which the court had ordered the violation to be corrected.
- (b) Pursuant to title 25, chapter 29 of the Delaware Code, any fines imposed by any court for violations of this chapter shall give rise to a lien(s). The unpaid amounts of such fines may be added to local property tax billings for the property which was the subject of said violation. "Fines" shall also include any civil judgment entered pursuant to section 4101 of title 11 of the Delaware Code.

- (c) Issuance of warnings. At the discretion of the Commissioner of Licenses and Inspections or any of his designees who are authorized by the commissioner to do so, a written warning may be issued on a form approved by the commissioner and the city solicitor to the owner, agent, or person in control of any building or structure concerning violations of any provision of this chapter that is not a life-threatening violation. If any violation concerning which any such warning has been issued has not been corrected within the time allowed, then the department of licenses and inspections shall proceed to obtain compliance as provided in this chapter.
- (d) Continuing violations. After conviction and sentencing for violation of any such order of the commissioner of licenses and inspections based upon and issued pursuant to the provisions of this chapter or any provision of any rule or regulation promulgated by the department of licenses and inspections for the enforcement or implementation of this chapter, if such person shall continue in violation of such order, then such person shall be liable for further prosecution, conviction, sentencing, and punishment upon such same order, without any necessity of the commissioner of licenses and inspections issuing a new order until there is full compliance with such order.
- (e) Separate offenses. Each day's failure to comply with any order of the commissioner of licenses and inspections based upon and issued pursuant to the provisions of this chapter or the provisions of any rule or regulation promulgated by the department of licenses and inspections for the enforcement and implementation of this chapter, and each day's failure to comply with any provision of this chapter or any such rule or regulation shall constitute a distinct and separate offense and be punishable as such.
- (f) The building official is hereby authorized to make inspections to determine the condition of buildings, dwellings, and premises including the land on which the same are located and including vacant lots, located within this city, in order that he may perform his duty of safeguarding the health and safety of the occupants of buildings, dwellings and land, and the general public. For the purpose of making such inspections, the building official is hereby authorized to enter, examine and survey between the hours of 8:00 a.m. and 5:00 p.m. all buildings, dwellings, lands and premises. The owner or occupant of every building, dwelling, land and premises, or the person in charge thereof, shall give the building official free access to such building, dwelling, land and premises during such time for the purpose of such inspection, examination and survey; provided, that such inspection, examination or survey shall not have for its purpose the undue harassment of such owner or occupant and that such inspection, examination or survey shall be made so as to cause the least amount of inconvenience to such owner or occupant consistent with the efficient performance of the duties of the code official.

- (g) Nothing in this section shall be construed to prohibit the entry of the building official: (1) At any time when an actual emergency which tends to create an immediate danger to public safety exists, or (2) at any time when such an inspection, examination or survey may be requested by such owner or occupant; provided, however, that any such requested inspection, examination or survey is otherwise authorized and, further, that nothing herein shall be construed to mean that the building official is required to perform such requested inspection, examination or survey.
- (h) For purposes of this section and the enforcement of the provisions of this code, "code official" shall mean and include the officer or other designated authority charged with the administration and enforcement of this code and chapter, and a duly authorized representative, including the city fire marshal and any duly authorized representative of the fire marshal for purposes of the enforcement of the more stringent of any provisions involving fire safety in this code and chapter and in chapter 12, "fire prevention and protection" of the city Code. Any person who opposes or impedes a building official of the city in the execution of his duty hereunder shall be deemed guilty of a violation of this chapter. In addition, if a code official of the city is denied entrance to a building, dwelling, land or premises for purposes of inspection, he may, upon a showing of probable cause, obtain a warrant for purposes of entering and inspecting the building, dwelling, land or premises.

## **SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT**

**Section 116.1 Conditions is amended by adding new subsections Section 116.1.1, Section 116.1.2, Section 116.1.3 Section 116.1.4, Section 116.1.5 Section 116.1.6 and shall read as follows:**

**Section 116.1.1 Building maintenance, etc. – Responsibilities of owner.** No person shall own any building within the city which does not comply with the following requirements, particularly in connection with any evidence of decay of any of the items herein enumerated such as to render the building unsafe:

- (a) Foundations, exterior walls and roofs. Every foundation, exterior wall and roof shall be weathertight, watertight, rodentproof and insectproof. Any evidence of decay of a foundation, exterior wall or roof shall be a violation of this section.
- (b) Interior partitions, walls, floors, and ceilings. Every interior partition, wall, floor and ceiling shall be capable of affording privacy and shall be kept in a good state of repair and in a clean and sanitary condition. Any evidence of decay shall be a violation of this section.
- (c) Drainage and removal of rainwater from roofs. All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings

or floors of any habitable room or of any bathroom. Any evidence of decay of a roof shall be a violation of this section.

- (d) Windows, exterior doors and basement hatchways. Every window, exterior door and basement hatchway shall be weathertight and rodentproof. Any evidence of decay of a window, exterior door or basement hatchway shall be a violation of this section.
- (e) Exterior wood metal surfaces, and public structures, including bridges and appurtenances. All exterior wood metal surfaces, and public structures, including bridges and appurtenances, shall be protected from the elements and against decay by paint or other approved protective coating applied in a workmanlike fashion. Any evidence of decay such as cracking, scaling, peeling or loose paint or decay of any other protective coating shall be a violation of this section.
- (f) Stairways, porches, etc. Every inside and outside stairway, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon. Any evidence of decay of a stairway, porch, etc., shall be a violation of this section.
- (g) Plumbing fixtures; water and waste pipes. Every supplied plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition. Any evidence of decay of such plumbing fixture, water pipe or waste pipe shall be a violation of this section.
- (h) Chimneys and smoke pipes. Every chimney and every supplied smoke pipe shall be adequately supported.
- (i) Toilet room and bathroom floors. Every toilet room, floor surface and bathroom floor surface shall be maintained so as to be impervious to water and shall be kept in a clean and sanitary condition.
- (j) Facilities, equipment and utilities generally. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function properly and shall be maintained in good working condition.
- (k) Removing, discontinuing, etc., services, facilities, equipment or utilities. No owner or operator shall cause any service, facility equipment or utility which is required to be supplied under the provisions of this chapter to be removed from, shutoff from or discontinued for any occupied building, except for such temporary interruption as may be necessary while actual repairs, replacements or alterations are in the process of being made.
- (l) Pest control. Every owner of a building shall be responsible for the extermination of insects, rodents or other pests on the premises. Whenever infestation exists in

any building or any part of any building, extermination thereof shall be the responsibility of the owner.

- (m) Cleanliness, etc., of communal, shared or public areas. Every owner of a building shall be responsible for maintaining in a clean and sanitary condition all communal, shared or public areas of the building and the premises thereof.
- (n) Cleanliness, etc., of occupied buildings generally. No owner shall occupy or rent to any other person for occupancy or allow any other person to occupy any vacant building or any part thereof, unless it is clean, sanitary and in compliance with all provisions of this chapter and all rules and regulations promulgated pursuant thereto.
- (o) Open ditches or excavations. All open ditches or excavations that present a safety or health hazard shall be filled or protected to eliminate such hazard.
- (p) Drainage generally. All parts of all buildings and premises shall be so drained as to prevent unsanitary accumulation of water in cellars or basements or any nuisance to or excessive drainage upon sidewalks and adjoining properties
- (q) Structural Analysis – When in the opinion that that the structural integrity is comprised, a structural analysis must be conducted by a licensed structural engineer to determine the integrity of the structure and must submit a detailed report on how to repair the current hazardous situation
- (r) Fences

**Section 116.1.2 Safeguards.** When, in the opinion of the building official, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof that would endanger life, the code official shall cause the necessary work to be done, whether it be by demolition, shoring, or other method as determined by the building official in order to render such building, or structure, or part thereof, temporarily or permanently safe, whether or not the legal procedure herein prescribed has been instituted.

**Section 116.1.3. Considerations as to demolition of attached buildings.** The following aspects of the demolition of an attached building shall be addressed in accordance with this subsection:

- (1) Before the Department of Licenses & Inspections issues a permit for demolition, drawings shall be submitted by a licensed structural engineer or architect, indicating that the demolition will leave a solid and secure base upon which the surviving building will rest.
- (2) The remaining party wall, after demolition, shall be rebuilt with brick.

- (3) Insulation at a minimum of 1" shall be installed so as to guarantee a minimum standard to assure occupants of the remaining party wall that there will be the same level of comfort on a year-round basis, as there was prior to the demolition of the adjoining building.
- (4) The additional thickness in inches required to construct such a wall in accordance with the foregoing requirements may be eased over to the owner of the existing building, as well as all rights of access to the building wall and the right to use that wall for any reason that the owner of the surviving building may choose.
- (5) If and when a new building is built on the site of the demolished building, and if such new structure requires the use of the common wall, the owner of the site of the demolished building shall have the right to bring his or her property line back to the same point that it was prior to the demolition of the previously existing building or structure and any easement as aforesaid.
- (6) The Department of Licenses and Inspections shall notify neighboring tenants and owners of buildings proposed to be demolished of their rights under this section, and shall spell out the obligations of the demolition company involved. Such requirements shall include a list of measures of protection that such neighboring tenants and owners are entitled to, should there be current or future damage to the surviving building resulting from the subject demolition.
- (7) The Department of Licenses and Inspections will provide an advocate to work with property owners involved in order to assist in minimizing the impact of the demolition and to promote projects which will enhance appearances for both the City and the property owner.

**Section 116.1.4. Disclosure of environmental conditions applies to any interior or exterior greater than 160 sq/ft.** Every owner or agent for the owner of a property for which a demolition permit application is filed with the Department of Licenses and Inspections, shall provide full disclosure with such demolition permit application of any pending environmental assessment, review, remediation, or voluntary compliance action that has been issued, ordered or approved by the U.S. Environmental Protection Agency, or by the Delaware Department of Natural Resources and Environmental Control (DNREC). No demolition permit shall be issued or approved until such full environmental disclosure has been filed with the department of licenses and inspections to the satisfaction of the Commissioner of Licenses and Inspections. The purpose and intent of this section is to prevent any property owner, builder, contractor, developer or other person from obtaining a demolition permit from the city without fully disclosing and informing the city officials of known environmental hazards on the site for which an application for a demolition permit has been made. 160 square feet

**Section 116.1.5. Abatement of public nuisances; governmental demolitions.**

- (a) Nuisances; definitions.

- (1) "Nuisance" is defined as any condition of the land, or of the buildings erected thereon, or of the trade or business conducted therein or thereon, or of unsightly articles collected thereon or therein, or of obnoxious odors arising thereon, therein, or therefrom, or any other condition that arises from the unreasonable, or unlawful use by a person of his own property, real or personal, or from his improper conduct that works as an injury to the right of the public, and produces material annoyance, inconvenience, discomfort or hurt, or that is injurious to the health, or is indecent or offensive to the senses, so as to interfere with a person's comfortable enjoyment of life or property or so as to constitute a menace to the public health.
- (2) "Public nuisance building" is defined as any of the following:
  - (A) Any building that, by reason of its condition, endangers public health, life, limb, safety, or property, and is likely to cause harm, inconvenience, damage or injury to one or more persons.
  - (B) Any building that, by reason of continued vacancy and the lack of reasonable maintenance, has deteriorated to the point that it is a blighting influence on nearby properties, and poses a threat to the public health, safety, and welfare.
- (b) Emergency demolitions. When, in the opinion of the code official, a building is in such condition that it constitutes a public nuisance building posing an imminent threat to the public health, safety and welfare, such that it requires immediate action and no less drastic means or means short of substantial reconstruction are available on an emergency basis, the code official may eliminate the dangerous condition, demolish the building, or contract with other persons to do so. Prior to taking measures to eliminate the dangerous condition, the code official will make reasonable efforts to notify the record owner of the emergency condition, the intent to demolish the building or otherwise to eliminate the dangerous condition, and the estimated timeframe within which the dangerous condition must and shall be abated.

The department of licenses and inspections, in addition to invoking any other sanctions and procedures, may, with the approval of the law department, collect the costs incurred by the city from the owner of the building by lien, as authorized in 25 Del. C. § 4601 or as may otherwise be authorized by law.
- (c) Nonemergency demolitions. When in the opinion of the code official, a building is in a condition such that it constitutes a public nuisance building, but does not pose an imminent threat to the public health, safety and welfare such as would require immediate action, the code official may

eliminate the dangerous condition or demolish the building, or contract with other persons to do so, there being no less drastic measures that are reasonable and available.

- (1) Procedures: In all instances of nonemergency demolitions of buildings as authorized pursuant to the provisions of this section, the owner(s) of the building that is the object of the nuisance abatement shall be provided with notice and an opportunity to be heard. Written notice shall be provided by mailing of a certified letter, return receipt requested, to the last known address of the record owner, owners or record lien holder(s) notifying them of the address of the building to be demolished and including the following:
  - (A) A list of specific conditions of the building that constitute violations of the building code.
  - (B) Notice that failure or refusal to correct the conditions within a specified period of time following the mailing of the notice may lead to demolition of the building.
  - (C) A concise statement that the owners or lien holders, as the case may be, have appellate rights to an administrative hearing before the board of license and inspection review wherein they may be represented by counsel, introduce evidence, examine and cross-examine witnesses, and receive a decision in writing, which decision shall include detailed findings of fact.
  - (D) A concise statement of notice that, if the building is demolished, the city may lien the property for the costs incurred by the city in accordance with the provisions of 25 Del. C. §§ 4601 and 4602.
  - (E) A concise statement of notice that the demolition notice and its receipt by the owner or lien holder do not preclude criminal prosecution of the owner or lien holder.
  - (F) Following the determination by the code official that a building is a public nuisance building, but that it does not present an emergency, the city council by resolution shall specifically direct the abatement of the nuisance.
- (d) In any demolition, whether governmental or private, whether emergency or non-emergency, there shall be landscaping of the affected lot by improvement with top soil and grass seeding during the growing season in

which the completion of the demolition occurs, or in the next immediate growing season thereafter, and the development of the turf to a level acceptable to the city, which normally would mean four inches of topsoil with good germination of grass seeding. In addition, there shall be submitted within 30 days of the completion of the demolition, a detailed development plan for the site, which shall be submitted to the department of licenses and inspections.

**Section 116.1.6 Right of condemnation.** All buildings or structures that are or hereinafter shall become unsafe, unsanitary or deficient in adequate exit facilities or which constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures and public nuisances. All such unsafe structures are declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with this chapter. A vacant building, unguarded or open at the door or window, or partially or completely boarded up for a period exceeding 45 days, shall be deemed to be unsafe within the meaning of this code, a fire hazard and a public nuisance.

**Section 116.1.7. Boarding of vacant structures in excess of 45 days** It shall be within the discretion of the department of licenses and inspections to grant an extension of time to permit a vacant building to remain boarded in excess of 45 days, but no more than six months, if active rehabilitation of the structure is ongoing and the following requirements are met:

- (1) The owner of the property must submit a written letter to the department of licenses and inspections stating the specific work taking place or to take place, including a time table for each aspect of the rehabilitation;
- (2) All necessary building permits must be acquired, or if previously acquired, must be active; and

The work being performed must be continual throughout the entire period the building remains boarded.

**Section 116.3 Notice is amended with new subsection Section 116.3.1 added and shall read as follows:**

**Section 116.3.1 Notice of unsafe structure and hearing.** If an unsafe condition is found in the building or structure, the building official shall give written notice, by either mail or service or other form of delivery, to the owner, agent or person in control of the structure, describing the structure deemed unsafe and stating the required repairs or improvements to be made to render the structure safe and secure, or requiring the unsafe structure or portion thereof to be demolished within a specified time. If the owner, agent or person in control cannot be found, a copy of the notice shall be posted in a conspicuous place on the premises and such a procedure shall be deemed the equivalent of personal

service. Any notice herein required shall, if mailed, be deemed to be effective upon mailing.

Such notice shall provide that the person so notified may appeal the violation notice to the board of licenses and inspections review. The appeal shall be in writing and filed within ten days after the receipt of the violation notice. Any appeal to the board of licenses and inspections review shall be accompanied with a nonrefundable fee in the amount required by this chapter at the time of filing. The board of licenses and inspections review shall hear and decide appeals in accordance with its duly prescribed and promulgated rules, regulations and procedures.

**SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT is amended by adding new subsection Section 116.6 and shall read as follows:**

**Section 116.6. Disregard of unsafe notice.** Upon the failure or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the jurisdiction shall institute the appropriate action in the courts to compel compliance, or the building official, with the approval of council, shall have full power to remove the unsafe building or structure and whatever expense shall be incurred in relation thereto shall be paid by the city treasurer out of monies in the treasury; and the owner or owners shall be jointly and severally liable to the city for the full amount so expended. The city may maintain an action of law in debt or assumpsit against such owner or owners to recover the sums of money so expended, plus lawful interest and cost. When any person is found guilty, whether by trial or admission, of violating any provision of section 119.0, in instances in which such person, at the time of sentencing for such violation, also has not reimbursed the city for the costs incurred by the city in securing and boarding up the open areas of any building or structure regarding which such person or persons have been found guilty, as provided, the court having jurisdiction shall order such person or persons to make full restitution to the city for such costs in addition to and not in lieu of any fines which the court may impose.

**SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT is amended by adding new subsection Section 116.7 and shall read as follows:**

**Section 116.7. Vacant building.**

- (a) Rehabilitation or demolition of vacant and boarded buildings. It shall be unlawful and a violation for which the owner of the property or the person responsible for the property shall be liable for any vacant building 119.03(b) to determine if an emergency demolition is required because the building is an imminent threat, as provided therein, or subsection 119.03(c) to determine if a nonemergency demolition is required because the building constitutes a public nuisance.
- (b) Secure open areas of building.

- (1) Violations. It shall be unlawful for any owner, agent, or person in control of any building or structure which is vacant and open or otherwise unsafe to fail to secure and board up the open areas of any such building. If, after a reasonable time, the building or structure is not secured, but rather it remains vacant and open or otherwise unsafe, the building official or authorized agent or employee of the city may enter upon the premises, building or structure and secure or board up the open areas of such building or structure, or cause the same to be done. If the building official or authorized agent or employee of the city is denied entrance to a premises, building or structure for purposes of securing and boarding up the open areas of such building or structure, he may, upon a showing of probable cause, obtain a warrant for purposes of entering and securing and boarding up the subject building or structure.
- (2) Costs incurred. The owner or owners of the subject building or structure shall be jointly and severally liable to the city for the full amount so expended in securing and boarding it up. The owner, agent or person in control of such building or structure shall reimburse the city for all costs incurred by the city in so securing or boarding up such building or structure. The city may maintain an action of law in debt or assumpsit against such owner or owners to recover the amount of money so expended, plus lawful interest, and costs.
- (3) Reimbursement of city at time of sentencing of violator. When any persons are found guilty, whether by trial or by admission, of violating provisions of this section, in instances in which such person, at the time of sentencing for such violation, also has not reimbursed the city for the costs incurred by the city in securing and boarding up the open areas of any building or structure regarding which such person or persons shall be found guilty, as provided, the court having jurisdiction shall order such person or persons to make full restitution to the city for such costs in addition to and not in lieu of any fine which the court may impose.

**CHAPTER 1 SCOPE AND ADMINISTRATION is amended by adding new Section 117 and shall read as follows:**

**Section 117.0 Nonresidential structures maintenance standard is amended by new subsection Section 117.0. Nonresidential structure maintenance standards is amended by new subsections Section 117.1, Section 117.2, Section 117.3, Section 117.4, Section 117.5, Section 117.6 and shall read as follows:**

The following standards apply to all structures or portions thereof, used or most recently used for nonresidential purposes, which are located in commercial or residential districts, as described in chapter 48, articles IV and V of the Wilmington City Code.

**Section 117.1** All exterior surfaces of wood or other fibrous materials shall have a continuous, tightly adhering, unbroken protective coating of paint or similar material.

**Section 117.2** All exterior metal surfaces which are not inherently and permanently resistant to corrosion shall have a continuous, tightly adhering, protective coating of a material appropriate to the metal.

**Section 117.3** All openings, except chimneys, shall be made weathertight.

**Section 117.4** Glass panes larger than one square foot which are cracked or broken shall be replaced.

**Section 117.5** Materials used to cover or weatherproof doors, windows, or other exterior openings shall conform to the standards contained in sections 122.1 and 122.2. The materials shall be sturdy and shall be maintained in good repair, with any defacing to be eradicated or covered.

**Section 117.6** All loose, corroded, rotted or otherwise deteriorated elements of every structure shall be removed and replaced when necessary to maintain the building in watertight and weatherproof condition.

**CHAPTER 1 SCOPE AND ADMINISTRATION is amended by adding new Section 118 and shall read as follows:**

**Section 118.0. Residential uses in buildings within the downtown area.** In order to encourage innovative and safe residential uses of the upper floors of structures or buildings within the downtown area bounded by the centerline of Second Street on the south, the centerline of King Street on the east, the centerline of Ninth Street on the north, and the centerline of West Street on the west, the following requirements and standards shall be applicable to all such structures or portions thereof, used or most recently used for nonresidential purposes or for mixed nonresidential and residential purposes, when, as, and if such parts of such buildings or structures are renovated for residential uses, compliance with which shall be shown prior to the issuance of a certificate of occupancy.

The floors above the street level floor of any building or structure within the downtown area as aforesaid may be apartments of not less than 150 square feet of sleeping area for the first occupancy thereof and at least 100 additional square feet for every additional occupancy thereof, and not less than 40 square feet of bathroom area, the floor space to be calculated on the basis of total habitable floor area, exclusive of stairways.

**CHAPTER 1 SCOPE AND ADMINISTRATION is amended by adding new Section 119 and shall read as follows:**

**Section 119.0. Authorizations of improvements to exteriors of vacant buildings or structures; procedures; liens for the costs incurred.**

- (a) Authorization. The Department of Licenses and Inspections is authorized to initiate the making of improvements to the exteriors of vacant buildings or structures in accordance with this section and pursuant to the provisions of 25 Del. C. ch. 29 (§ 2901 et seq.) and 25 Del. C. ch. 46 (§ 4601 et seq.).
1. Eligible buildings or structures. If the owner has failed to rehabilitate or demolish:
    - (1) A building that is vacant or abandoned and deemed to be unsafe, or
    - (2) Any other building or structure that is vacant and amendable to rehabilitation if made secure, the commissioner of licenses and inspections may recommend that exterior improvements be made or caused to be made to such building or structure so as to render the building or structure safe and secure and to prevent further structural damage from rain and other natural causes, and that a lien be duly recorded in order that the city may recover the costs incurred by public expenditure for the same.
  2. Types of improvements. Exterior improvements, authorized herein, may include, but are not limited to: Repairs to or replacement of any of the structural components of such buildings or structures, sidewalks in the right-of-way or on the lot on which the building or structure is located, steps, porches, railings, columns, windows, doors, exterior painting, brick pointing and roofing, and any other repairs or replacements deemed appropriate to protect and secure the structural integrity of the building or structure and to prevent further damage that would render the building or structure unsafe. The costs incurred by the city for any such improvements shall be referred to as "exterior improvement costs." Such exterior improvement costs incurred by the city shall be recorded by lien in accordance with the provisions of 25 Del. C. ch. 46 (§ 4601 et seq.).
  3. Approval and certification of improvements to be made. The commissioner of licenses and inspections, his duly authorized designee, the director of real estate and housing and the director of planning, or the duly authorized designee of each of the same, shall by majority approval of a written authorization certify that specific exterior improvements shall be made to a building or structure, identified by street address and tax parcel number, in accordance with this subsection. Such written authorization shall be forwarded to the procurement and records division and to the finance director with specifications prepared for the particular improvements authorized to be made and for no other improvements. In an emergency affecting the public safety as determined by the commissioner of licenses and inspections or his designee, the rendering of

exterior improvements to secure the structure may be expedited in lieu of the requirements of this certification subsection.

4. Notice to owner. When exterior improvements have been authorized as aforesaid and specifications for the same have been prepared, the department of licenses and inspections shall provide notice to the record owner or owners of the subject building or structure and to any record lien holders that such exterior improvements will be undertaken and the date of commencement of the same. For purposes of this subsection, the mailing of a certified letter, return receipt requested, at least 30 days prior to the commencement of the exterior improvements, to the last known address of the record owner, owners or lien holders and notifying same of the address of the property to be improved, the tax parcel number, the condition of the property and the legal right of the city to obtain a judgment against the owner and a lien against the property after completion of the exterior improvements, shall be deemed to be sufficient notice.
- (b) Costs incurred as debt owing to city. Whatever expenses are incurred in relation to authorized exterior improvements pursuant to this subsection shall be paid by the city treasurer out of monies in the treasury and the owner or owners shall be jointly and severally liable to the city for the full amount so expended. Whenever exterior improvement costs have been incurred as aforesaid, the expenditure of public funds for exterior improvements to any vacant or abandoned building deemed to be unsafe or any other vacant building or structure, following notice to the owners, being the costs so incurred, with legal interest thereon from the date of expenditure, shall be reimbursed to the city, on demand, by the person or persons who were the owner or owners of such building or structure at the time such work of exterior improvement commenced. The city may maintain an action of law in debt or assumpsit against the owner or owners to recover the sums of money so expended, plus lawful interest and cost. When any person is found guilty, whether by trial or admission, of violating any provision of sections 119.1, or 119.5, or 119.6, or any combination of the same, in any instance in which such person, at the time of sentencing for such violation, also has not reimbursed the city for the costs incurred by the city in making or causing to be made any exterior improvements, pursuant to this subsection, to any building or structure regarding which such person or persons have been found guilty, as provided, the municipal court shall order such person or persons to make full restitution to the city for such exterior improvement costs in addition to and not in lieu of any fines which the court may impose.
  - (c) Entering of lien. When the city expends public funds for the purpose of exterior improvements to any vacant or abandoned building or structure deemed to be unsafe or any other vacant building or structure within the city, after such notice as aforesaid, the city may enter a lien for the amount so expended, with interest accrued thereon, on the lands and premises on which such work of exterior improvements was performed by means of the department of finance and the city

solicitor forwarding directions to the prothonotary for New Castle County for the entering of such exterior improvement liens in a docket for the same.

- (d) Satisfaction. When the department of finance and the city solicitor have determined the exterior improvement costs and interest, the entering of the lien shall be done by forwarding to the prothonotary the information as aforesaid. Whenever any such lien is satisfied by payment, the department of finance and the city solicitor may so advise the prothonotary in order that there shall be entered in the prothonotary's records the date of final payment and the words `satisfied in full' pursuant to 25 Del. C. § 4603(d).
- (e) Rules and regulations. The department of licenses and inspections may adopt rules and regulations as deemed necessary and proper for the administration of this subsection, subject to approval by the administrative board.

**CHAPTER 1 SCOPE AND ADMINISTRATION is amended by adding new Section 120 and shall read as follows:**

**Section 120.0. Annual registration of vacant buildings and registration fees.**

- (a) Purpose. The purpose of this section requiring the registration of all vacant buildings, including dwellings that are subject to chapter 34 as referenced below, and the payment of registration fees is to assist the city government, particularly the department of licenses and inspections (DLI) in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the city, particularly those that are located in the downtown business district (from Second to 16th, and Walnut to West Streets), to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provisions of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, the health and sanitation code, and any other applicable provisions of the Wilmington City Code.
- (b) Definitions and applicability; registration statement and fees.
  - (1) Definitions. For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:
    - (A) Boarded: A building or structure subject to the provisions of this section shall be deemed to be "boarded" if in place of one or more exterior doors, other than a storm door, or of one or more

windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

- (B) Exterior maintenance and major systems: The phrase "exterior maintenance and major systems" shall mean the safe and lawful maintenance of the facade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, drive- way, if any, area of the lot, as applicable and as enforced by the DLI, particularly in connection with subsections 119.01 (building maintenance) and 124 (exterior improvements) of this section of this code.
- (C) Occupied: Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid city business license, or the most recent, federal, state, or city income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of pre-rental inspection.
- (D) Open: A building or structure subject to the provisions of this section shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open and, or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.
- (E) Owner: An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.
- (F) Vacant: A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as

the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, nontransient basis.

- (2) **Applicability.** The requirements of this section shall be applicable to each owner of any building that is not a dwelling that shall have been vacant for more than 45 consecutive days and to each owner of residential property consisting of one or more vacant dwellings that shall have been vacant for more than 45 consecutive days. Each such owner shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the DLI. The registration fee(s) as required by sub-section (b)(3) of this section shall be billed by the DLI and shall be paid by January 1 of each year. For purposes of this section, the following shall also be applicable:
  - (A) If the owner is a corporation, the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent annual franchise tax report filed with the secretary of state;
  - (B) If an estate, the name and business address of the executor of the estate;
  - (C) If a trust, the name and address of all trustees, grantors, and beneficiaries;
  - (D) If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;
  - (E) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;
  - (F) If an individual person, the name and residence address of that individual person.
- (3) **Registration statement and fees; local agent.** If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in

connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 45 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering. The owner of the vacant property as of November 1 of each calendar year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the DLI and based on the duration of the vacancy as determined by the following scale:

- (i.) No fee for properties that are vacant for less than one year;
  - (ii.) \$500.00 for properties that are vacant for at least one year but less than two years,
  - (iii.) \$1,000.00 for properties that are vacant for at least two years but less than three years,
  - (iv.) \$2,000.00 for properties that are vacant for at least three years but less than five years,
  - (v.) \$3,500.00 for properties that are vacant for at least five years but less than ten years, and
  - (vi.) \$5,000.00 for properties that are vacant for at least ten years, plus an additional \$500.00 for each year in excess of ten years.
- (4) Appeal rights. The owner shall have the right to appeal the imposition of the registration fees to the Licenses and Inspection Review Board, upon filing an application in writing with the applicable \$50.00 non-refundable filing fee to the Department of Licenses and Inspections no later than 30 calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy, as defined in 125.0(b)(1)(C).
- (5) One time waiver of registration fee. A one-time waiver of the registration fee, or an extension of a waiver for up to 12 months form the date of the billing statement immediately following the waiver, may be granted by the Commissioner of Licenses and Inspections upon application of the owner and upon review and advice of the law department, within 30 calendar days from the date of the bill for the registration fee, if the owner
- (i.) Demonstrate with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

- (ii.) Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or
  - (iii.) Provides satisfactory proof that he/she was actively attempting to sell or lease the property during the vacancy period.
- (6) Two-year waiver. Upon application by the owner and satisfaction of subsection (b)(5) above, the Licenses and Inspection Review Board may grant a two-year waiver of the registration fee if the owner meets the criteria for non-profit organizations as defined by Section 501(c)(3) of the Internal Revenue Code.
- (7) Delinquent registration fees as a lien. After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection (b)(4) above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the city, and the city may commence a civil action to collect such the unpaid debt.
- (c) Duty to amend registration statement. If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the department of licenses and inspections within 30 days of the occurrence of such change and advise the department in writing of those changes.
- (d) Exceptions. This section shall not apply to any building owned by the United States, the state, the city, nor to any of their respective agencies or political subdivisions.
- (e) Violations; penalties.
  - (1) The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than \$100.00 nor more than \$500.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of \$100.00 is imposed, it shall not be subject to suspension or reduction for any reason.

## **Section 121.0 Workmanship**

**121.1 General:** All work shall be conducted installed and completed in a safe, workmanlike and acceptable manner so as to secure the results intended by this code.

## **CHAPTER 2 DEFINITIONS**

**Section 202 Definitions is amended by adding the following definitions and shall read as follows:**

**Section 202.0. Occupied:** A building or structure shall be deemed to be occupied if one or more persons actually reside or live in the building as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or if one or more individuals, firms, corporations, partnerships, or other entities actually operates an ongoing duly licensed business, whether as owner or tenant, in the subject building or structure. For purposes of this code, evidence offered to prove that a building is occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer, and cable television subscriber services; the production of a current limitation of occupancy notification application pursuant to this section by the department of licenses and inspections; a valid city business license; or the most recent, federal, state, or city income tax statements indicating that the subject property is an occupied building for residential or nonresidential purposes.

**Vacant:** A building or structure shall be deemed to be vacant if no person or persons actually currently resides or lives in the building as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or if none of any individuals, firms, corporations, partnerships, or other entities actually operates an ongoing duly licensed business, whether as owner or tenant, in the subject building or structure.

**Mobile Unit:** Mobile unit or home are not permitted unless being used for temporary facility

## **CHAPTER 4 SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY**

**SECTION 406 MOTOR-VEHICLE-RELATED OCCUPANCIES is amended by adding new subsection Section 406.9 Parking Lots and shall read as follows:**

**Section 406.9. Parking lots. Parking lots shall comply with the following:**

**Section 406.9.1. Curb cuts.** Parking lots shall be arranged so as to afford ready means of entrance and exit at sidewalk level. Special permits for all curb cuts shall be secured from the appropriate city department or state agency.

**Section 406.9.2. Lanes and parking spaces.** Access lanes that are not less than 12 feet (3658 mm) each in width shall be provided for each lane of traffic for motor vehicles. Each parking space shall be not less than eight feet (2348 mm) by 18 feet (5486 mm) in dimensions for each motor vehicle, unless otherwise specified or authorized by a provision of the Wilmington City Code.

**Section 406.9.3. Protection of adjoining property.** A substantial bumper of masonry, steel or heavy timber and of suitable size and shape for the purpose shall be placed along all lot lines in order to protect structures and property abutting or adjoining the parking lot.

**Section 406.9.4. Surface and drainage.** Parking lots shall be graded with rolled or compacted cinders, gravel or other approved nonabsorbent materials to prevent the raising of dust and shall be maintained so as to prevent drainage onto adjoining property, adjacent sidewalk, or public right of way.

**Section 406.9.5. Electric illumination.** Electric light wiring shall be provided to furnish adequate illumination of driveways and lanes as required by the administrative authorities for street lighting, but such illumination shall be not less than 0.25 lumen per square foot (2.69 lumens/m<sup>2</sup>) of parking area.

## **CHAPTER 5 GENERAL BUILDING HEIGHTS AND AREAS**

**Section 501 General is amended by adding new subsection Section 501.3 and shall read as follows;**

### **501.3 General**

Chapter 5 is amended by deleting any and all references to authorization of any "5B" construction, in that any type "5B" construction is not permitted in the City of Wilmington with the exception of section 506.6 Accessory Building.

**Section 503 General Building Height and Area Limitations is amended with the new subsection Section 503.1.4 and shall read as follows;**

**Section 503.1.4 Enclosure of porches.** Enclosure of porches using frame construction on the party lines shall be permitted for existing residential structures in zone R-3 only, so long as the enclosure complies with the zoning code requirements that such porches be 60 percent open, and so long as any such enclosed porch is actually used as a porch and for no other purpose.

## **SECTION 504 BUILDING HEIGHT**

**Section 504.3 Roof structures is amended and shall read as follows:** Towers, steeples and other roof structures shall be constructed of materials consistent with the required type of construction of the building except where other construction is permitted by Section 1509.2.5. In applying the provisions of the basic code governing height limits, the following appurtenance structures shall not be included in the height of the building: Roof tanks and their supports, ventilating, air conditioning and similar building service equipment, roof structures other than penthouses or chimneys and parapet walls not exceeding four feet in height, unless the aggregate area of such structures, including

penthouses, exceeds one-third of the area of the roof of the building upon which they are built.

**Section 504 Building Height is amended by adding new subsections Section 504.4, Section 504.5, Section 504.5.1, Section 504.5.2 and shall read as follows:**

**Section 504.4. Dwellings.** Provided that they are constructed in accordance with the applicable provisions of the International Building Code 2012, particularly in connection with fire-protection requirements, for protected frame construction, and the amendments in this section:

**Section 504.4.1.** One-family detached dwellings and one-family semi-detached dwellings, not exceeding three stories in height, may be erected of protected frame construction (type 5A) when not less than five feet from the interior lot lines. All structural elements shall meet the requirements of strength and rigidity as specified in chapter 17. In one-family semi-detached dwellings, walls between the housing units shall be two-hour party walls and shall meet the requirements of the basic code.

**Section 504.4.2.** Rowhouses or townhouses, not exceeding ten houses in number or three stories in height, may be constructed of protected frame construction (type 5A) when the row of houses, considered as a unit, is not less than five feet from the exterior lot lines. All structural elements shall meet the requirements of strength and rigidity specified in chapter 7. All party walls between housing units shall be two-hour party walls and shall meet the requirements of the basic code.

**SECTION 506 BUILDING AREA MODIFICATIONS is amended with new subsections Section 506.6, 506.7, 506.8, 506.9 and shall read as follows:**

**Section 506.6 Accessory buildings.** Accessory buildings for office purposes in connection with motor vehicle parking lots and used car sales lots may be erected of frame construction (type "5B") not exceeding 100 square feet in area and ten feet in height, when located not less than six feet from lot lines or any building. Any building exceeding 100 square feet must be installed with a permanent foundation.

**Section 506.7. Verandas.** On dwellings already erected, verandas, balconies, porches, entrance porticos and similar structures may be erected of frame construction, provided they do not extend nearer than three feet to the lot line.

**Section 506.8 Decks.** Open decks of frame construction may extend to party lines, provided they do not rise above the floor level of the lowest habitable floor.

**Section 506.9 Bay Windows.** Bay or oriel windows may be built of protected frame construction on residential structures in districts R-2 and R-3, provided such windows do not exceed 14 feet in length nor project beyond the wall line more than three feet. Such

windows shall not be nearer than three feet from party lot lines, nor shall any two such windows on the same story be built nearer than five feet to each other.

## **CHAPTER 6 TYPES OF CONSTRUCTION**

### **SECTION 602. CONSTRUCTION CLASSIFICATION is amended by adding new subsection 602.5.1 and shall read as follows:**

**602.5.1** Type 5B construction is prohibited in the City of Wilmington (including any references in table 601).

## **CHAPTER 10 MEANS OF EGRESS**

### **SECTION 1013.4 GUARDS, is amended by adding new subsection Section 1013.4.1 and shall read as follows:**

**Section 1013.4.1 Ladder Effect.** Within individual dwelling units and sleeping units in Groups R-2, R-3, Group I-4 Child Care Facilities, and all of Group E, guards shall not have open sides of stairs which run in a horizontal pattern that create a “Ladder Like” effect.

### **SECTION 3303 DEMOLITION is amended by adding new subsections Section 3308, Section 3309, Section 3310 and shall read as follows:**

**Section 3303.8 Considerations as to demolition of attached buildings.** The following aspects of the demolition of an attached building shall be addressed in accordance with this subsection:

- (1) Before the Department of Licenses & Inspections issues a permit for demolition, drawings shall be submitted by a structural licensed engineer or architect, indicating that the demolition will leave a solid and secure base upon which the remaining party wall will rest.
- (2) The remaining party wall, after demolition, shall be rebuilt using brick.
- (3) Rigid insulation at a minimum of 1” shall be installed so as to guarantee a minimum standard to assure occupants of the surviving building that there will be the same level of comfort on a year-round basis, as there was prior to the demolition of the adjoining building.
- (4) The additional thickness in inches required to construct such a wall in accordance with the foregoing requirements may be eased over to the owner of the existing building, as well as all rights of access to the building wall and the right to use that wall for any reason that the owner of the surviving building may choose.

- (5) If and when a new building is built on the site of the demolished building, and if such new structure requires the use of the common wall, the owner of the site of the demolished building shall have the right to bring his or her property line back to the same point that it was prior to the demolition of the previously existing building or structure and any easement as aforesaid.
- (6) The Department of Licenses and Inspections shall notify neighboring tenants and owners of buildings proposed to be demolished of their rights under this section, and shall spell out the obligations of the demolition company involved. Such requirements shall include a list of measures of protection that such neighboring tenants and owners are entitled to, should there be current or future damage to the surviving building resulting from the subject demolition.

The Department of Licenses and Inspections will provide an advocate to work with property owners involved in order to assist in minimizing the impact of the demolition and to promote projects which will enhance appearances for both the City and the property owner.

**Section 3303.9. Disclosure of environmental conditions applies to any interior or exterior greater than 160 sq/ft..** Every owner or agent for the owner of a property for which a demolition permit application is filed with the Department of Licenses and Inspections, shall provide full disclosure with such demolition permit application of any pending environmental assessment, review, remediation, or voluntary compliance action that has been issued, ordered or approved by the U.S. Environmental Protection Agency, or by the Delaware Department of Natural Resources and Environmental Control (DNREC). No demolition permit shall be issued or approved until such full environmental disclosure has been filed with the department of licenses and inspections to the satisfaction of the Commissioner of Licenses and Inspections. The purpose and intent of this section is to prevent any property owner, builder, contractor, developer or other person from obtaining a demolition permit from the city without fully disclosing and informing the city officials of known environmental hazards on the site for which an application for a demolition permit has been made. 160sq/ft

**116.1.4. Disclosure of environmental conditions.** Every owner or agent for the owner of a property for which a demolition permit application is filed with the Department of Licenses and Inspections, shall provide full disclosure with such demolition permit application of any pending environmental assessment, review, remediation, or voluntary compliance action that has been issued, ordered or approved by the U.S. Environmental Protection Agency, or by the Delaware Department of Natural Resources and Environmental Control (DNREC). No demolition permit shall be issued or approved until such full environmental disclosure has been filed with the department of licenses and inspections to the satisfaction of the Commissioner of Licenses and Inspections. The purpose and intent of this section is to prevent any property owner, builder, contractor, developer or other person from obtaining a demolition permit from the city

without fully disclosing and informing the city officials of known environmental hazards on the site for which an application for a demolition permit has been made.

**Section 3303.10 Abatement of public nuisances; governmental demolitions.**

(a) Nuisances; definitions.

(1) "Nuisance" is defined as any condition of the land, or of the buildings erected thereon, or of the trade or business conducted therein or thereon, or of unsightly articles collected thereon or therein, or of obnoxious odors arising thereon, therein, or therefrom, or any other condition that arises from the unreasonable, or unlawful use by a person of his own property, real or personal, or from his improper conduct that works as an injury to the right of the public, and produces material annoyance, inconvenience, discomfort or hurt, or that is injurious to the health, or is indecent or offensive to the senses, so as to interfere with a person's comfortable enjoyment of life or property or so as to constitute a menace to the public health.

(2) "Public nuisance building" is defined as any of the following:

(A) Any building that, by reason of its condition, endangers public health, life, limb, safety, or property, and is likely to cause harm, inconvenience, damage or injury to one or more persons.

(B) Any building that, by reason of continued vacancy and the lack of reasonable maintenance, has deteriorated to the point that it is a blighting influence on nearby properties, and poses a threat to the public health, safety, and welfare.

(b) Emergency demolitions. When, in the opinion of the code official, a building is in such condition that it constitutes a public nuisance building posing an imminent threat to the public health, safety and welfare, such that it requires immediate action and no less drastic means or means short of substantial reconstruction are available on an emergency basis, the code official may eliminate the dangerous condition, demolish the building, or contract with other persons to do so. Prior to taking measures to eliminate the dangerous condition, the code official will make reasonable efforts to notify the record owner of the emergency condition, the intent to demolish the building or otherwise to eliminate the dangerous condition, and the estimated timeframe within which the dangerous condition must and shall be abated.

The department of Licenses and Inspections, in addition to invoking any other sanctions and procedures, may, with the approval of the law department, collect

the costs incurred by the city from the owner of the building by lien, as authorized in 25 Del. C. § 4601 or as may otherwise be authorized by law.

- (c) Nonemergency demolitions. When in the opinion of the code official, a building is in a condition such that it constitutes a public nuisance building, but does not pose an imminent threat to the public health, safety and welfare such as would require immediate action, the code official may eliminate the dangerous condition or demolish the building, or contract with other persons to do so, there being no less drastic measures that are reasonable and available.
  - (1) Procedures: In all instances of nonemergency demolitions of buildings as authorized pursuant to the provisions of this section, the owner(s) of the building that is the object of the nuisance abatement shall be provided with notice and an opportunity to be heard. Written notice shall be provided by mailing of a certified letter, return receipt requested, to the last known address of the record owner, owners or record lien holder(s) notifying them of the address of the building to be demolished and including the following:
    - (A) A list of specific conditions of the building that constitute violations of the building code.
    - (B) Notice that failure or refusal to correct the conditions within a specified period of time following the mailing of the notice may lead to demolition of the building.
    - (C) A concise statement that the owners or lien holders, as the case may be, have appellate rights to an administrative hearing before the board of license and inspection review wherein they may be represented by counsel, introduce evidence, examine and cross-examine witnesses, and receive a decision in writing, which decision shall include detailed findings of fact.
    - (D) A concise statement of notice that, if the building is demolished, the city may lien the property for the costs incurred by the city in accordance with the provisions of 25 Del. C. §§ 4601 and 4602.
    - (E) A concise statement of notice that the demolition notice and its receipt by the owner or lien holder do not preclude criminal prosecution of the owner or lien holder.
    - (F) Following the determination by the code official that a building is a public nuisance building, but that it does not present an emergency, the city council by resolution shall specifically direct the abatement of the nuisance.

- (d) In any demolition, whether governmental or private, whether emergency or non-emergency, there shall be landscaping of the affected lot by improvement with top soil and grass seeding during the growing season in which the completion of the demolition occurs, or in the next immediate growing season thereafter, and the development of the turf to a level acceptable to the city, which normally would mean four inches of topsoil with good germination of grass seeding. In addition, there shall be submitted within 30 days of the completion of the demolition, a detailed development plan for the site, which shall be submitted to the department of licenses and inspections.

## **CHAPTER 34 EXISTING STRUCTURES**

### **SECTION 3412 Compliance Alternative is amended shall read as follows:**

**Section 3412.2 Applicability.** Structures existing prior to [January 1, 2014, 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 3403 through 3407. The provisions in sections 3410.2.1 through 3410.2.5 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.