CHAPTER 1303. INTERNATIONAL PROPERTY MAINTENANCE CODE[1]

1303.01. Adoption.

There is hereby adopted and incorporated by reference herein, in order to protect the public health, safety, and welfare in all existing structures, residential and nonresidential, and on all existing premises by establishing minimum requirements and standards for premises, structures, buildings, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, occupancy, and for safe and sanitary maintenance; fixing the responsibility of the owners, operators and occupants; regulating the occupancy and use of existing structures and premises and providing for the administration and enforcement of that certain code known as the International Property Maintenance Code 2024 as published by The International Code Council, Inc. subject to the modifications hereinafter set forth.

(Ord. 22-56. Passed 6-13-22)

1303.02. File copies.

Copies of the International Property Maintenance Code adopted herein are on file with the Clerk of Council for inspection by the public. The Clerk of Council also has copies available for distribution to the public at cost.

(Ord. 22-56. Passed 6-13-22)

1303.03. Amendments.

The International Property Maintenance Code 2024 adopted herein is hereby modified in the manner respectively indicated:

(a) 101.1 Title. These regulations shall be known as the Property Maintenance Code of the City of Delaware, hereinafter referred to as “this code.”

(b) 102.8.1 Conflicts. In any case where a provision of this IPMC is found to be in conflict with a provision of any zoning, building, fire, safety, health, or other regulation, the provision of which establishes a higher standard for the promotion and protection of the safety and health, the conflicting provision shall prevail. In any case where any provision of Chapter 1311 Exterior Property Maintenance Code conflicts with the IPMC, Chapter 1311 Exterior Property Maintenance Code shall prevail.

(c) 103. Code compliance agency.

1. Enforcing Agency. The City of Delaware Planning and Community Development Department is the enforcing agency of this code and the official in charge thereof shall be known as the code official. The function of the agency shall be the implementation, administration, and enforcement of the provisions of this code.
2. Appointment. The code official shall be appointed by the Director of Planning and Community Development.

3. Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Director of Planning and Community Development shall have the authority to appoint a deputy code official, other related technical officers, inspectors, and other employees. Such employees shall have powers as delegated by the code official.

4. Fees. All fees are established by Council and set forth in the City of Delaware Fee Schedule.

(d) 106. Means of appeal. The Board of Zoning Appeals shall serve as the Board of Appeals for this Chapter. Appeals may be brought by any person, or by any government officer, board, or department of the City, deeming themselves to be adversely affected by a final decision of the Director of Planning and Community Development, Code Official, or by any administrative officer of the City deciding matters relating to this code.

1. Initiation of Appeal. Applications for appeal shall be filed with the Director of Planning and Community Development upon the forms provided, within thirty (30) days after the date of any adverse final order, requirement, decision, or determination. Failure to file a notice of appeal within such thirty (30) days shall constitute a waiver of the right of appeal. The application for appeal shall include reference to the final decision and the provision of this Zoning Ordinance from which the appeal is sought, and reasons for the appeal as well as all requirements set forth in the application checklist on file in the Planning and Community Development Department, unless items are determined by the Director to be inapplicable and are waived. The Director of Planning and Community Development shall transmit to the Board the record upon which the action appealed was taken from.

2. Public Hearing by the Board. When an application for appeal has been filed in proper form and the application fee has been paid, the Director of Planning and Community Development shall immediately place the request upon the calendar for public hearing before the Board of Zoning Appeals. The Board of Zoning Appeals shall hold such public hearing within forty-five (45) days after the receipt of an application for an appeal from the Director of Planning and Community Development or applicant. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may appear at the public hearing in person, by agent, or by attorney.

3. Notice of the hearing shall be given by posting on the City's website for the ten-day period referenced in subsection (2).

4. All notices shall be mailed at least ten (10) days before the date of said public hearing. All notices shall set forth the time, place and nature of the proposed appeal.

5. Failure of delivery of such notices shall not invalidate action taken on such application.

6. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Planning and Community Development from whom the appeal is taken certifies to the Board, after the notice has been filed with him or her, that by reason of facts stated in the certificate of building and zoning compliance, a stay would in his or her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order, which may be granted by the Board or by a competent court having lawful jurisdiction.

7. Review by the Board. The Board of Zoning Appeals shall review the appeal. The Board may call upon the City Manager for assistance from City departments and professional consultants in performance of its duties. Such City departments or consultants shall render such assistance to the Board as may reasonably be required.

8. Decision by the Board. Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed, and to that end shall have all the powers of the officers from whom the appeal is taken, and it may direct the issuance of a permit or certificate.

9. Within forty-five (45) days after the public hearing, unless an extended period of time is mutually agreed upon by the applicant and the Board, the Board of Zoning Appeals shall either approve, approve with supplemental conditions, or disapprove the request for appeal. If the Board fails to act within such period of time, the appellant may determine the appeal has been denied.

10. A certified copy of the Board's decision shall be transmitted to the applicant, or appellant, and a copy shall be filed with the Director of Planning and Community Development.

11. Any person(s) aggrieved by the decision of the Board may appeal to the Court of Common Pleas of Delaware County within thirty (30) days after the filing of the Board's decision.

12. Once the appellant has received the Board's decision, he/she may submit an application for a certificate of building and zoning compliance that complies with the Board's decision. A copy of the Board's decision shall be attached to the application.

(e) 109.4 Notice. Whenever the code official determines that a violation of any provision of this code exists, a notice of violation shall be issued. Such notice of violation shall:

1. Be in writing;

2. Identify the violation;

3. Include a statement of the reason or reasons why the notice of violation is being issued and refer to the chapters of this Chapter being violated; and

4. State the date by which the violation shall be corrected and provide a reasonable time in which to correct the violation.

5. Service of a notice of violation shall be by either:

   A. Personal delivery to the person or persons responsible; or

   B. Certified mail addressed to the person or persons responsible at the last known address; or

   C. Posted in a conspicuous place on the occupied premises.

6. After the notice of violation is served, no work shall proceed on any building or premises included in the notice except to correct the violation or violations identified in the notice or to comply with the notice

(f) 303.2 Enclosures. Private swimming pools, hot tubs and spas, shall be enclosed by a fence or other proper barrier and maintained in accordance with Section 1130.04 (k) of the Planning and Zoning Code.

(g) 304.14 Insect screens. During the period from January 1 to December 31 every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

(h) 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from January 1 to December 31 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied. Exceptions: 1. Processing, storage and operation areas that require cooling or special temperature conditions.2. Areas in which persons are primarily engaged in vigorous physical activities.

(Ord. 09-37. Passed 6-8-09; Ord. 22-56. Passed 6-13-22)

1303.04. Penalty.

This penalty section replaces and supersedes Section 107.4 of the International Property Maintenance Code 2024.

(a) Prosecution of Violation. Any person who shall violate a provision of this Code or fails to comply with a notice of violation or order served in accordance with this Code, or with any requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. A violation shall be classified as a minor misdemeanor for the person's first offense and shall be classified as a fourth-degree misdemeanor for every subsequent offense.

(Ord. 22-56. Passed 6-13-22)