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**CITY OF NEWARK
DELAWARE**
PLANNING AND DEVELOPMENT DEPARTMENT

September 29, 2010

TO: Mayor and Council
VIA: Kyle R. Sonnenberg, City Manager *KRS*
FROM: Roy H. Lopata, Planning and Development Director *RH Lopata*
Steve Wilson, Code Enforcement Supervisor *SW*
RE: Adoption of 2009 International Building and Property Maintenance Codes

We have attached the required ordinances for the readoption of the latest versions of the 2009 International Building, Property Maintenance and Fire Code which replace the 2006 editions currently used by the City. In addition, the City's standard amendments to these Codes are included in the attached set of Code revisions that are added to meet local conditions and requirements. Finally, several new amendments are also proposed for Council's consideration. The proposed new amendments are described below:

- In the Property Maintenance Code, section 404.8.3 clarifies access requirements for rental inspections.
- In the Property Maintenance Code, section 301.6 provides for fines for properties with multiple (three or more in one year) property maintenance or criminal citations and, in addition, the possibility of suspension of rental permits for residences.

Otherwise, the Code is essentially the same but updated as per the requirements of the International Code Council, the compiling agency of these building code texts.

If you have any questions, please let us know.

RHL/ed
Attachments

Cc: Maureen Feeney Roser, Assistant Planning and Development Director

BILL NO. 10-17
1st Reading _____
2nd Reading _____

CITY OF NEWARK
DELAWARE

ORDINANCE NO. 10-__

An Ordinance Amending Chapter 17, Housing and, Property Maintenance, Code of the City of Newark, Delaware, By Adopting the 2009 Edition of the International Property Maintenance Code with Amendments

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 17, Housing and Property Maintenance, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Delete Sections 17-1 through 17-4 in its entirety and insert in lieu thereof the following new language.

“Sec. 17-1. Adoption of Property Maintenance Code.

There is hereby adopted by the City of Newark for the purpose of protection of public health, safety and welfare, by establishing minimum maintenance standards for all structures and premises for basis equipment, facilities for light, ventilation, space heating and sanitation, safety from fire, for space, use and occupancy; and for safe and sanitary maintenance of all structures and premises now in existence, the International Property Maintenance Code, hereafter referred to as the International PM Code, of which not less than three copies have been and are now on file in the office of the code enforcement division being in particular of the 2009 International Property Maintenance Code, and all the nationally recognized standards referred to [and] incorporated therein, together with any and all supplements thereto, except such articles and sections as are hereinafter deleted, modified or amended.

Sec. 17-2. Definition: Code official.

As used herein, *code official* shall mean the code enforcement division of the City of Newark and/or any of his authorized assistants, code enforcement officers, or constables.

Sec. 17-3. Saving clause.

Nothing in this chapter or in the code hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby.

Sec.17-4. Amendments made to the 2009 International PM Code with Supplements.

- (a) 101.1 Insert “the City of Newark, Delaware” in the blank on the second and third lines.
- (b) 103.1 *General*: Delete Section 103.1 in its entirety and insert in lieu thereof a new Section 103.1 to read as follows:

“103.1 *General*: The department charged with enforcement of this chapter shall be the code enforcement division, and the executive official in charge shall be known hereafter as the code official.”

- (c) 104.3 *Right of entry*. Delete the last sentence and insert in lieu thereof the following:

“If entry is refused or not obtained, the code official is authorized to apply to the City of Newark Alderman’s Court for issuance of an administrative search warrant to verify compliance with Chapters 7, 17 and 32 of the City of Newark Municipal Code.”

- (d) 106.4 *Violation penalties*. Delete Section 106.4 in its entirety and insert in lieu thereof a new Section 106.4 to read as follows:

“106.4 *Violation penalties*: Any person, firm, corporation, partnership, or representatives thereof, who fails to comply with Chapter 17, Code of the City of Newark shall be guilty of a violation and upon conviction, shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or imprisonment for not more than thirty (30) days, or both, and the further sum of \$100.00 for each and every day that such violation is permitted to continue. For the purpose of this section the violation of any section of Chapter 17 shall constitute a separate offense. Invocation of the above penalties shall not preclude the code official of the City of Newark from instituting appropriate action or proceedings to prevent an illegal act, conduct, business, or use in or about the premises.”

- (d.1) 106.4.1 *Citations*. Add a new subsection 106.4.1 to read as follows:

“106.4.1 *Citations*: In lieu of this section the code official may serve a citation for any violation of this chapter or of Chapters 7 or 14 which shall constitute a civil violation and shall impose a fine of \$100.00 for each such violation, subject to appeal as provided for in Section 111, (means of appeal). Failure to appeal such violation or to pay such fine within thirty (30) days shall cause the fine to be doubled to \$200.00. Failure to pay such fine for sixty (60) days shall result in a lien against the property in accordance with Section 17-5.”

- (e) 107.2 *Form*: Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.

3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal.
6. Include a statement of the right of the city to file a lien in accordance with Section 106.3.
7. Include a description of any actions taken by the code official in response to an emergency, including any additional corrective measures ordered by the code official, and notification that all costs, including any related municipal costs made necessary by the emergency will be borne by the owner.

(f) 107.3 *Method of Service*: Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally.
2. Sent by certified or first-class mail addressed to the last known address.
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
4. In the event of an emergency, the code official shall make a reasonable attempt to contact the owner. A notice shall be prepared and provided to the owner on the next regular business day. Failure to serve notice shall not prevent any action taken pursuant to Section 109 of this code.

(g) 108.8 *Vacant or abandoned and unsightly structures*: Add a new Section 108.8 to read as follows:

“108.8 *Vacant or abandoned and unsightly structures*: When in the opinion of the code official, the physical condition of an abandoned or vacant building is such that it is creating blight that may have a substantial impact on the property values of other adjacent buildings or structures or those in the vicinity of such abandoned or vacant building, the code official shall cause the provisions of this section to be enforced.”

(g.1)108.8.1 *Notice and order*: Upon making the determination of substantial adverse impact as set forth in Section 108.8 above, the code official shall cause to be sent to the record owner of such property a notice and order as provided in Section 107 demanding that said owner provide the city, in writing and within ten (10) days of receipt of such notice, a plan or proposal which such owner will cause to be undertaken to change the physical appearance of said building or structure so as to eliminate the aforementioned adverse impact on surrounding property values.

(g.2) 108.8.2. *Denial*: If the code official determines that the plan or proposal submitted by the property owner of such abandoned or vacant building or structure is not likely to substantially reduce or eliminate the aforementioned adverse impact on surrounding property values, the code official shall, within ten (10) days of receipt of such plan or proposal, request appropriate changes in such plan or proposal.

(g.3) 108.8.3 *Enforcement*: The code official shall have certain enforcement powers under this section. Such powers may be exercised upon any of the following events:

1. The owner of such unsightly abandoned or vacant building receives the notice described in Section 108.8.1, but fails to respond thereto;
2. The owner of an unsightly abandoned or vacant building presents an unacceptable plan or proposal to remedy the problems with the building and refuses, upon request, to amend the proposal so as to satisfy the code official; or
3. The owner of an unsightly abandoned or vacant building fails to comply with the terms and conditions of an accepted plan or proposal.

(g.4) Delete Section 108.2.5 *Abatement* in its entirety and insert in lieu thereof a new subsection 108.8.4, *Abatement*, to read as follows:

“108.8.4 *Abatement*: Upon the occurrence of any event set forth in Section 108.8.3 hereinabove, the code official may secure estimates from three (3) reputable licensed contractors skilled in performing such work. The code official shall select one contractor to perform such work. Upon making such selection, the code official shall send notice by certified and first class mail to the offending property owner, that the city intends to enter into an agreement with such contractor for the performance of the remedial work, and that the cost of such work, and any related municipal costs shall be filed as a lawful lien against the offending property. The notice described in this section shall inform the property owner that he, she, or it shall have ten (10) days in which to cause the remedial work to be commenced or the city shall enter into such contract.”

(g.5) Delete Section 108.2.6 in its entirety and insert in lieu thereof a new subsection 108.8.4.1, *Commencement of work*, to read as follows:

“108.8.4.1 *Commencement of work*: If after service of such notice, and the passage of ten (10) days, the property owner fails to remedy the offending condition(s), the city shall enter into the aforementioned contract and shall instruct the relevant contractor to commence the appropriate work forthwith.”

(g.6) Delete Section 108.2.7 in its entirety and insert in lieu thereof a new subsection 108.8.4.2, *Recovery of associated costs*, to read as follows:

“108.8.4.2 *Recovery of associated costs*: Upon completion of the work described in Sections 108.8.4 and 108.8.4.1 hereinabove, the city shall cause the incurred cost of such work and all related municipal expenditures, to be filed as a lien against said property in accordance with Section 17-5.”

(h) 110.1 *General*. Amend Section 110.1 as follows:

- In line nine delete the words “board up” and insert the word “secure.”
- In line twelve delete the words “two years and insert the words “one year.”
- In line thirteen delete the words “board up” and insert the word “secure.”
- In line fourteen delete the words “Boarding the building up” and insert the words “Securing the building.”

(i) 301.2.1 *Caretaker*. Add a new subsection 301.2.1 *Caretaker* to read as follows:

“301.2.1 *Caretaker*: In every multi-family dwelling residential subdivision with fifteen (15) or more separate dwelling units, there shall be a responsible person designated by the owner, residing on the premises, whose duties include maintaining the commonly used areas and equipment of the premises; the owner shall also provide the code official with names, addresses, and telephone numbers of alternative responsible persons if the caretaker is not available to perform such maintenance. In every multi-family dwelling subdivision with less than fifteen (15) units, there shall be a responsible person designated by the owner, whose duties include maintaining the commonly used areas and equipment, whose name, address and telephone number shall be provided to the code official and the tenants.”

(j) 301.4 *Vacant land or lots*. Add a new Section 301.4, *Vacant land or lots*, to read as follows:

“301.4 *Vacant land or lots*: Front lot line maintenance shall be performed by the owner or owner’s representative of vacant land or lots to a minimum of twenty feet (20’) from any abutting public right-of-way. Side and rear lot line maintenance shall be required to be performed by the owner or owner’s representative to vacant land or lots to a minimum of ten feet (10’) from the adjacent lot line when such land/lots are adjacent to an existing developed and improved lot. Where it is impractical to maintain the height of grass, weeds and/or other ground cover due to the density of trees, bushes and other vegetation, such vegetation shall either be trimmed or removed to the extent necessary to prevent encroachment upon by such vegetation the public right-of-way, sidewalks, and side and rear lot lines.”

(k) 301.5 *Other areas*. Add a new Section 301.5, *Other areas*, to read as follows:

“301.5 *Other areas*: Property owners, landlords, tenants and their representatives shall be responsible for maintenance of the areas between the curb or the middle of an alley and their front, rear and side yards in compliance with this code.”

- (l) 302.3 Delete Section 302.3 in its entirety and insert in lieu thereof a new Section 302.3 to read as follows:

“302.3 *Sidewalks, driveways and parking areas*: All sidewalks, driveways, service roads, access ways, and parking areas shall be paved and maintained free from deterioration, potholes and other hazards. Parking areas assigned to more than one residential dwelling unit or commercial parking areas shall be maintained with striping in accordance with Chapter 32.”

- (m) 302.4 Delete Section 302.4 in its entirety and insert in lieu thereof a new Section 302.4 to read as follows:

“302.4 *Vegetation*: All property, grounds and premises shall be maintained in a condition that is reasonably cultivated. The following shall be prohibited:

1. Grasses, ground cover and weeds in excess of ten inches (10”) in height.
2. All noxious, toxic or poisonous growths.
3. Trees that, in the opinion of the code official or a certified arborist, are: rotten, decaying, diseased, hazardous or dead.
4. Any growth of grass, weeds, shrubbery, trees or other vegetation that creates a hazard on an adjoining property.
5. Any plant growth overhanging a sidewalk less than eight feet (8’) above the ground.
6. Any plant growth encroaching upon the public walkway and reducing the width below the minimum sidewalk width required by law shall be cut back and maintained.”

- (n) 302.7.1 *Fencing*: Add a new subsection 302.7.1, Fencing, to read as follows:

“302.7.1 *Fencing*: All fencing visible from public areas shall be kept in a condition consistent with the originally approved construction method design and materials, or shall meet the following minimum requirements:

1. A fence shall be considered to be in disrepair when its vertical members (posts and intermediate boards) list, lean, or buckle to such an extent that a plumb line or level set at the top outside edge of the member would show more than a four inch deflection from true vertical measured at the base of the member.
2. Broken, missing, decayed, damaged, deteriorated, or unsightly fencing components/parts or boards must be repaired or replaced with similar materials and methods of construction. Patching or repairs to fences with incompatible materials or design are allowed on a temporary basis for no more than thirty (30) days, at which time, such fences shall be correctly fixed, ~~or~~ repaired or removed according to this section.

3. Fences with graffiti or spot painting of multiple colors not part of a particular design scheme will be considered blight unless removed or painted one color for the entire area of the fence. Monotone colors are permissible for painted fencing.
4. Fencing in residential areas consisting of barbed wire or similar materials shall not be permitted and shall be considered blight.”

(o) Delete Section 302.8 in its entirety and insert in lieu thereof a new Section 302.8 *Parking of vehicles*, to read as follows:

“302.8 *Parking of vehicles*: Vehicles, including motor vehicles, trailers, carts, boats, campers, motor homes, and the like, shall be parked or stored in accordance with the following requirements:

1. Vehicle(s) shall be parked on a durable hard surface. Parking on lawn or grass areas shall be prohibited. For the purposes of this section a durable hard surface shall mean stone, paving, concrete, paver blocks or other approved surface of a size greater than or equal to the size of the vehicle.
2. Vehicle(s) shall be registered as required by the State of Delaware Department of Motor Vehicles. Parking of unregistered vehicles or vehicles with registration that has expired for more than thirty (30) days shall be prohibited.
3. Vehicle(s) shall be maintained in good repair and in operating order. No vehicle shall be in a state of major disassembly, disrepair or in the process of being stripped or dismantled.
4. Vehicle(s) shall be located as permitted in Chapter 32, Zoning.
5. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exceptions:

1. Vehicles parked or stored inside a building.
2. Vehicles or trailers approved and permitted as construction/temporary structures in accordance with Chapter 7, Building.”

(p) 302.9 Amend Section 302.9, *Defacement of Property*, by deleting it in its entirety and substituting in lieu thereof of a new Section 302.9 to read as follows:

“302.9 *Defacement of property*.

- (a) *Definitions*. The following words, terms, and phrases, when used in this section shall the meanings ascribed to them in this subsection except where the context clearly indicates a different meaning:
 1. *Aerosol paint container* means any aerosol container that is adapted or made for the purpose of applying paint or other substances capable of defacing property.
 2. *Broad-tipped marker* means any felt-tip, indelible marker, or similar implement with a flat or angles writing surface that, at its broadest width, is

greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.

3. *Graffiti* means any unauthorized inscription, word, figure, painting, or other marking that is written, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement and which marking was not authorized in advance by the owners of the property.
4. *Graffiti implement* means an aerosol paint container, broad tipped marker, gum label, paint stick, or graffiti stick, etching equipment, or any other device capable of visible scarring or leaving a visible mark on any natural or man-made surface.
5. *Minor* means any person under the age of eighteen (18) years of age.
6. *Paint stick or graffiti stick* means any devices containing a solid form of paint, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth of an inch in width.

(b) *Display and storage.*

1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling any type of graffiti implements shall store such implements in an area continuously observable through direct visual observation or surveillance equipment by employees of the retail establishment during the regular course of business.
2. In the event that a commercial retail establishment is unable to store the graffiti implements it sells in an area as provided above, the establishment shall store such implements in an area not accessible to the public in the regular course of business without employee assistance.
3. A minor who is an employee of a person who, or an entity which is a vendor of graffiti implements may, in the course of his or her duties, possess such implements for purposes of lawful sale or transfer, but shall not purchase or obtain possession of the same for any other purpose.
4. No minor shall, at the time of purchase as specified in this section, knowingly furnish fraudulent evidence of majority.

- (c) *Required Sign.* Every person who operates a retail commercial establishment selling any type of graffiti implement shall place a sign with a minimum height of 14 inches and a width of 12 inches, with lettering of at least one-half of one inch in height which is in clear public view at or near the display of such products and which states:

“WARNING: IT IS ILLEGAL TO SELL OR DISTRIBUTE AEROSOL PAINT, PAINT STICKS, OR BROAD-TIPPED MARKERS TO ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE OR FOR ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME. IF YOU ARE OVER 18 YEARS OF AGE IT IS

ILLEGAL FOR YOU TO PURCHASE AEROSOL PAINT, PAINT STICKS, OR BROAD TIPPED MARKERS FOR A PERSON UNDER 18 YEARS OF AGE IF YOU ARE NOT SUCH PERSON'S PARENT, GUARIAN, SCHOOL TEACHER, OR ART OR CRAFT INSTRUCTOR.”

- (d) *Prohibited Acts.* A person is guilty of the act of causing graffiti when the person damages public or private real or personal property without the permission of the owner by knowingly, purposely, or recklessly drawing, painting, or making any significant mark or inscription thereon.

302.9.1 *Distribution.* It shall be unlawful for any person, other than a parent, legal guardian, school teacher, art or craft instructor, or employer to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any minor.

302.9.2 *Property Owner Responsibility.* It shall be the responsibility of the owner of the property damaged by graffiti to restore said surface to an approved state of maintenance and repair, including the removal of graffiti.

302.9.3 *Notice.* Notice shall be as specified in this chapter. Notice to remove graffiti shall specify that is it unlawful for the owner or anyone who has primary responsibility for control of the property, or for maintenance or repair of the property, to permit property that is defaced with graffiti to remain defaced beyond a period of 10 days after service of notice as specified in this chapter.

302.9.4 *Exceptions to Property Owner Responsibility.* The removal requirements specified herein shall not apply if the property owner, or responsible party, can demonstrate that he or she has an active program for the removal of graffiti and such removal has been scheduled as part of such program, in which case it shall be unlawful to permit such property to remain defaced with graffiti beyond a period of 20 days after service of notice as specified in this chapter.

302.9.5 *Graffiti Removal Funding Assistance.* Following removal of graffiti, a property owner may apply to the finance director for the reimbursement of some, or all, of the cost of graffiti removal from fines placed in a fund established by the finance director resulting from penalties assessed under the provisions of Chapter 22, Police Offenses, Section 22-41.1, Graffiti. Distribution of funding allocations to private property owners shall be based solely on funds available and on a first come, first served basis at the discretion of the finance director. Receipts for the required work to remove the graffiti shall be submitted to the finance director for graffiti removal reimbursement. Requests for city funding assistance shall be submitted to the finance director within 30 days of the completion of the removal; such removal shall be certified by the Planning and Development Department/Code Enforcement Division to have been completed prior to such reimbursement.

302.9.6 *Failure to Remove.* A property owner who fails to remove the graffiti as specified herein shall be subject to the penalties set forth in this chapter.

302.9.7 *City Removal.* In the event graffiti is not removed or otherwise eliminated or abated by the date specified in the notice, the city, or a contractor hired by the city, shall enter upon the parcel and remove or abate such graffiti. If the city has conducted the removal or abatement of graffiti in accordance with this subsection, the actual cost of the removal, plus 50 percent in city overhead, plus accrued interest at the Delaware legal rate of interest per annum from the date of completion of the removal, if not paid by the owner, or not paid as a result of an order of the city alderman, shall be charged to the owner, or his or her agent, as a special tax bill by the city, and such charge shall be due and payable by the owner within six months of such tax bill. If the full amount due is not paid by the owner within the time required, the building official shall cause the special tax bill to be recorded in the municipal lien docket. The recordation of such special tax bill shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made.

302.9.8 *Penalties.*

- (a) The penalty for a first offense of this chapter shall be a mandatory fine of not less than \$200.00 or more than \$500.00. For the second and subsequent offenses the fine shall be \$500.00.
- (b) Portions of fines may be used to pay for the cost of public and private property graffiti removal. Distributions of fines for private property graffiti removal, if available, shall be administered by the finance director as specified in Chapter 17, Housing and Property Maintenance of this Code.
- (c) Community service. In lieu of, or as part of, the penalties specified in this section, an adult may be required to perform community service as prescribed by the court based on the following minimum requirements:
 - 1. The individual shall perform a minimum of 30 hours of community service.
 - 2. The entire period of community service shall be assigned by and performed under the supervision of a representative of the police department designated by the Chief of Police of the City of Newark.
 - 3. Reasonable effort shall be made to assign the individual to a type of community service that is reasonably expected to have the most rehabilitative effect on such person, including community service that involves graffiti removal.”

- (q) 302.10 *Storage areas.* Add a new Section 302.10, *Storage areas*, to read as follows:

“302.10 *Storage areas:* All approved open salvage yards and open storage areas shall be completely obscured from all surrounding property by a solid screen not less than six feet (6’) in height and in accordance with all applicable sections of Chapter 32. Storage of debris, junk, or construction material which are not associated with an approved use or permitted construction at that site shall be prohibited.”

- (r) 302.11 *Prohibited furniture*. Add a new Section 302.11, *Prohibited furniture*, and subsection 302.11.1, *Removal of abandoned or prohibited furniture*, to read as follows:

“302.11 *Prohibited furniture*: Interior type furniture that would be adversely affected by the elements and/or susceptible to infestation by insects, rodents, or other vermin is prohibited from being placed or stored outside a structure. Such prohibited furniture shall include, but shall not be limited to, upholstered couches and chairs, other fabric covered articles and articles not designed or intended for outdoor use.”

“302.11.1 *Removal of abandoned or prohibited furniture*: When the code official determines that prohibited or abandoned furniture is located in an exterior property area, the code official shall notify the property owner or other responsible person in accordance with Sections 107 or 106.4.1 of this code. If the furniture is not removed within the time set forth by such notice, the city may cause such furniture to be removed, and the owner shall be billed for the cost of such removal in accordance with Section 17-5 of this code.”

- (s) 303.1 *Swimming pools*: Add the following new language after the period:

“For the purposes of this section sanitary shall mean maintained to prevent the growth of insect larvae (including but not limited to mosquito larva) and algae or other similar plant life in addition to cleanliness.”

- (t) 304.19 *Boarding up prohibited*. Add a new Section 304.19, *Boarding up prohibited*, to read as follows:

“304.19 *Boarding up prohibited*: All windows, doors, or other openings required for light, ventilation, display, ingress or egress shall be maintained and not be boarded up by the installation of plywood, particleboard, tin or other like materials. Exceptions may be made for significant weather events, repair, and replacement, where a building permit has been issued for the property, or where the code official has approved or ordered such action in writing. Boarding materials shall be removed within ten (10) days of notice from the code official.”

- (u) 404.4.6 *Bedroom area*. Add a new subsection 404.4.6, *Bedroom area*, to read as follows:

“404.4.6 *Bedroom area*: Every bedroom shall contain at least seventy square feet (70 sq. ft.) for the first occupant and at least fifty square feet (50 sq. ft.) for each additional occupant.”

- (v) 404.5 *Overcrowding*: Delete Section 404.5 in its entirety and insert in lieu thereof a new Section 404.5 to read as follows:

“404.5 *Overcrowding*: Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of table 404.5 or by the requirements and restrictions of Chapter 32, Zoning.”

TABLE 404.5

Space	Minimum area in square feet		
	1 – 2 occupants	3 – 5 occupants	6 or more occupants
Living room	No requirements	120	150
Dining room	No requirements	80	100
Kitchen	50	50	60
Bedrooms	Shall comply with section 404.4.6		

(w) 404.8 *Rental permits required*. Delete in its entirety and insert a new Section 404.8 *Rental license required* to read as follows:

“404.8 *Rental license required*: An annual rental license is required prior to letting, leasing, sub-leasing, renting, or otherwise allowing the occupancy of the following structures:

1. Every non-owner occupied single family and/or two-family dwelling.
2. Every owner-occupied dwelling taking in more than two boarders or roomers unrelated to the owner by blood, marriage, or legal adoption.
3. Every multi-family dwelling (defined as a structure containing three or more dwelling units) including condominiums.
4. Every rooming house.
5. Every boarding house.
6. Any structure housing a mixture of occupancies that includes residential.
7. All fraternities and sororities as defined in Chapter 32, Zoning.”

(w.1) 404.8.1 *Rental license requirements*: The following shall be required as part of the rental license:

1. Application - applications shall be submitted in writing, on a form provided by the city and signed by the owner or their authorized agent. A rental license renewal invoice shall be permitted to substitute for the application, if signed.
2. Fee – payment of the fee as required by Section 404.8.2.
3. Inspection – the interior and exterior of the premises shall be inspected annually by the code official prior to the approval or renewal of the rental license. Failure to complete or permit such rental inspection prior to the renewal date shall cause a late fee to be assessed in accordance with Section 404.8.2.

4. Lease – any agreement, contract, lease or sublease which provides for, permits, allows, contemplates, or facilitates the occupancy of any structure for which a rental license is required herein shall be in writing, if such agreement, contract, lease, or sublease is for a period in excess of thirty (30) days. Such written agreements shall state that the tenant shall provide access for all required inspections by the City of Newark when provided with forty-eight hours written notice as per 25 Del. C., Part III, Landlord-Tenant Code. Such written agreements shall be submitted to the official upon request.

(w.2) 404.8.2 *License fees*: The annual license fee shall be as follows:

1. Three-hundred dollars (\$300.00) per dwelling unit for single-family or two-family dwellings.
2. Seventy dollars (\$70.00) per dwelling or rooming unit in any other residential occupancy except fraternities or sororities.
3. Fraternities and sororities are based on the following table:

Number of occupants	1 – 8	9 – 18	19 – 30	31 – 44	45 – 60	61 – 78	79 – 98
Fee	\$300.00	\$600.00	\$900.00	\$1200.00	\$1500.00	\$1800.00	\$2100.00
<p>These fees are based on the maximum occupancy of the building as established by the code official. These fees shall be reduced by one third (1/3) if the written lease or recorded deed for the property prohibits the use of alcohol by the tenants or occupants of the fraternity or sorority. Where a fraternity or sorority occupies more than one building, each building shall have a separate rental license.</p>							

4. One-hundred dollars (\$100.00) per unit of commercial multi-unit structures.
5. Three-hundred dollars (\$300.00) for commercial single unit structures.
6. A late fee of fifty dollars (\$50.00) shall be due for each unit, if paid after the due date.
7. A late fee of fifty dollars (\$50.00) shall be due for failure to complete the required rental unit inspection within sixty (60) days of the renewal date.

(w.3) 404.8.3 *Unlawful leases*. Add a new subsection 404.8.3 to read as follows:

“(a)No owner or landlord shall enter into any agreement, contract, lease, or sublease which provides for, permits, allows, contemplates, or facilitates occupancy of any structure which would require a rental permit in accordance with subsection 404.8 of this code, contrary to the use requirements of Section 32-9, RH, RT, and RS districts, Section 32-10, RD districts, Section 32-11, RM districts, and Sections 32-13, RR districts, Code of the City of Newark. Any agreement, contract, lease or sublease which provides for, permits, allows, contemplates,

or facilitates such occupancy by more persons than permitted in aforementioned code sections is unlawful and hereby declared to be contrary to public policy.

(b) Agreements, contracts, leases, or subleases for the occupancy of dwelling units requiring rental permit units as specified in this section:

1. Prominently stipulate that the conviction of any renter, boarder, or roomer who violates Chapter 20A, Noise; the occupancy limitations of this chapter and Chapter 32, Zoning, Code of the City of Newark; any property maintenance requirements of this chapter attributable to a renter, boarder, or roomer; any on-site violations of chapter 22, Police Offenses, attributable to a renter, boarder, or roomer, and, on-site violations of Chapter 19, Minors, Section 19-5, prohibiting minors from possessing or consuming alcoholic beverages, more than one time within a one year period, shall result in the giving of notice to all renters, boarders, or roomers residing in the relevant leased premises of the commencement of eviction proceedings pursuant to the provisions of the Delaware Landlord Tenant Code (hereinafter the DLTC). Thereafter the landlord of the leased premises, or an agent thereof, shall proceed to conclude such eviction proceedings pursuant to the relevant provisions of the DLTC. Offenses at any single leased premises shall be cumulative. Convictions under this section of two different renters, boarders, or roomers of the leased premises for violations as listed herein shall result in commencement of eviction proceedings as set forth in this section. This section shall not prohibit the execution of a new lease between the owner of the relevant premises and any person named as a renter, boarder, or roomer on a prior lease who was not subject to either of the two convictions which resulted in the termination of the prior lease and the commencement of lawful eviction proceedings. It shall be a further violation of this section for an owner to enter into a new lease of the same premises with a person who has been convicted of an offense listed in this section and lawfully evicted for a period of one year following the date of the eviction of such person.
2. Prominently stipulate the number and names of who may occupy the premises, under appropriate city and state laws or regulations, and that any violation of the allowable number of occupants of the premises, and providing that the said renter(s) shall have not more than seven days to vacate the dwelling unit.
If it is necessary to evict the tenant, the landlord shall immediately initiate and pursue in good faith summary proceedings for possession as specified in 25 Del. C., Part III, Landlord-Tenant Code. If the landlord or owner fails to initiate and pursue in good faith summary proceedings as stipulated herein, the building code official shall revoke one year the rental permit of the affected dwelling unit.
3. Prominently stipulate that, as specified herein, the exterior and interior of the premises shall be inspected on an annual basis by the Code Enforcement Division, subject to the provisions of 25 Del. C., Part III, Landlord-Tenant Code.

(c) Landlords or owners shall be required to stipulate in writing, as part of their application for rental permits, that the lease(s) for the dwelling unit(s) for which application is made contains the prominent notification to renters as specified in this section.

(d) The city shall notify the landlord, owner, or owner's agent if a renter in a unit for which a rental permit is required as stipulated in this section, is convicted of violating Chapter 20A, Noise, and/or Section 22-74.1, Disorderly Premises, Code of the City of Newark, Notice shall be deemed to be properly served upon the owner or owner's agent if a copy thereof is delivered to the owner or owner's agent; or leaving a notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion, who shall be informed of the contents thereof, or by certified mail addressed to the owner or owner's agent at the last known address with return receipt requested; or by posting a copy thereof in a conspicuous place in or about the structure affected by such notice."

(w.4) 404.8.4 *Posting of maximum occupancies in rental dwellings.* Add a new subsection 404.8.4 to read as follows:

"404.8.4 *Posting of maximum occupancies in rental dwellings:* Each owner of a one-family and/or a two-family dwelling type structure which requires a rental permit as specified in this chapter shall post the maximum occupancy permitted within said dwelling, as set forth in Chapter 32 of this code, and the number of available on-site off street parking spaces associated with said dwelling, so that the posting is readily visible to all tenants residing on the property. The occupancy statement shall include the maximum number of unrelated persons who may lawfully inhabit the dwelling pursuant to a valid lease, statement of penalties, as established herein for failure to comply with the requirements of this chapter, the name and telephone number of the owner or the owner's agent, and the telephone number of the City of Newark code enforcement division."

(w.5) ~~404.8.5~~ *Enforcement:* Pursuant to the procedures herein, the Code official is hereby empowered to deny issuance of or revoke any rental license applied for or issued as described herein if its discovered either that the applicant, owner or holder has misrepresented himself or the state of his property, or any time subsequent to the issuance of said permit, becomes violative of this section.

(w.6) 404.8.6 *Penalty:* "Any person, firm, corporation, partnership, or other commercial entity, or representative thereof, who fails to comply with Section 404.8 of this chapter shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1000.00), or imprisonment for not more than sixty (60) days, or both; any person, firm, corporation, partnership, or other commercial entity, or representative thereof, who fails to comply with Sections 404.8.1 - 404.8.4 of this chapter shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than two hundred

fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), or imprisonment for not more than thirty (30) days, or both.”

(w.7) 404.8.7 *Delinquent taxes and fees*: No rental licenses shall be issued for a property against which there are delinquent or unpaid property taxes or other municipal fees as defined below. For purposes of this section, delinquencies in the following taxes and fees shall result in the application of this section:

- a. Any municipal lien has been imposed upon the property.
- b. Property taxes are not paid on or before the due date.
- c. A citation in accordance with Chapter 17 Section 17-4 (e) has not been paid by the due date.
- d. An invoice for work done by the city at the request of a contractor, developer or property owner has not been paid on or before the due date.
- e. A utility bill for the property is more than thirty (30) days past due (in the case of a multiple unit building or property, the general/owners account or the tenant space in question).
- f. A business, sign, fire, or rental license is delinquent or has accumulated unpaid fees, including late fees.
- g. A fine assessed for a conviction of Chapter 17, Section 301.6 *Nuisance properties* has not been paid.

- h. Any fees for work done by the city, or by a contractor at the request of the city in accordance with Sections 106, 108, 109 or 110 have not been paid.

Exception: Licenses may be issued with an approved payment plan authorized by the finance department.

(x) 506.3 Delete the words “Where it has been determined that a grease interceptor is not being maintained and serviced as intended,” and insert the phrase “Where a grease interceptor is installed,”.

(y) 506.3.1 *Penalty*. Add a new subsection 506.3.1, *Penalty*, to read as follows:

“506.3.1 *Penalty*: Any person, firm, corporation, partnership, or other commercial entity, or representative thereof, who fails to comply with Section 506.3 of this chapter, and is issued a notice of violation more than one time in any calendar year, shall be guilty of a violation, and upon conviction, shall be punished by a fine of not less than five-hundred dollars (\$500.00) nor more than one-thousand dollars (\$1000.00), or imprisonment for not more than thirty (30) days, or both.”

(z) 601.3 *Carbon Monoxide*. Add a new Section 601.3, *Carbon Monoxide*, to read as follows:

“601.3 *Carbon monoxide (CO) alarms*: A carbon monoxide alarm shall be installed in the immediate vicinity of all sleeping rooms of each dwelling unit with fuel burning appliances or equipment or with attached garages or with attached storage/utility rooms which store fuel burning equipment.”

“601.3.1 Alarm requirements: Single station carbon monoxide alarms which comply with UL 2304 shall be installed in accordance with the requirements of this code and in accordance with the manufacturers’ installation instructions.”

(aa) 602.3 *Heat supply*: Delete Section 602.3, *Heat supply*, in its entirety and add Section 602.3, *Heat supply*, to read as follows:

“602.3 *Heat supply*: Insert the dates “September 15 to May 15” in the blanks in line five.”

(bb) 602.4 *Occupiable work spaces*: Delete Section 602.4 in its entirety and add Section 602.4, *Occupiable*, to read as follows:

“602.4 *Occupiable work spaces*: Insert the dates “September 15 to May 15” in the blanks in line three.”

(cc) 702.5 *Number of exits*. Add a Section 702.5, *Number of exits*, to read as follows:

“702.5 *Number of exits*: In nonresidential buildings, every story more than six stories above grade shall be provided with two independent exits. In residential buildings, every story exceeding two stories above grade shall be provided with two independent exits. In stories where more than one exit is required, all occupants shall have access to no two independent exits. Every occupied story which is both totally below grade and greater than two thousand (2,000) square feet, shall be provided with two independent exits.

Exception: A single exit is permitted if any of the following apply:

1. Where the building is equipped throughout with an automatic sprinkler system and an automatic fire detection system with smoke detectors located in all corridors, lobbies, and common areas.
2. Where the building is equipped throughout with an automatic fire detection system and the exit is an approved smoke proof enclosure or pressurized stairway.
3. Where an existing fire escape conforming to the building code is provided in addition to the single exit.
4. Owner occupied buildings of Use Group R-3.
5. Owner occupied single family dwellings that do not have sleeping rooms on the third floor or below grade.”

MOTION for Acceptance as First Reading on _____ 2010,

by Council Member _____.

Second Reading and Final Passage on _____,2010.

VOTE: _____to_____.

Mayor

Attest:

City Secretary

Approved as to Legality & Form

City Solicitor

2F

BILL NO. 10-18
1st Reading _____
2nd Reading _____

**CITY OF NEWARK
DELAWARE**

ORDINANCE NO. 10-___

**An Ordinance Amending Chapter 14, Fire Prevention,
Code of the City of Newark, Delaware, By Adopting the
2009 Edition of the International Fire Code with Amendments**

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 14, Fire Prevention, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Delete Sections 14-1 through 14-3 in its entirety and insert in lieu thereof the following new language.

“Sec. 14-1. Adoption of the International Fire Code by Reference.

There is hereby adopted by the council of the City of Newark for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International Fire Code 2009, including appendices A, B, C, and D, of which not less than three copies have been and are now on file in the office of code enforcement division - planning & development department and all of the nationally recognized standards referred to and incorporated into the code, together with any and all supplements thereto, except such articles and sections as are hereinafter deleted, modified, or amended.

Sec. 14-2. Amendments made to the International Fire Code 2009.

The International Fire Code 2009, along with appendices A, B, C, and D, is hereby amended by adding, amending, or deleting the following designated articles, section, or portions thereof:

- (1) 101.1 *Title*: Insert the words “the City of Newark, Delaware” in the blank in line two.
- (2) 103.3 *Deputies*: Delete Section 103.3 in its entirety and insert in lieu thereof a new Section 103.3 to read as follows:

“103.3 *Deputies*: It shall be the duty and responsibility of the fire marshal and the fire prevention inspector, under the direction of the fire code official, or his designee, to enforce the provisions of the fire code as therein set forth.”
- (3) 104.2 *Applications and permits*: Amend Section 104.2 by inserting the words “and licenses” after the word “permit” wherever it appears so that it reads as follows:

“104.2 *Applications, permits, and licenses*: The fire code official is authorized to receive applications, review construction documents, issue permits for construction regulated by this code, issue permits and licenses for operations regulated by this code, inspect the premises for which such permits and licenses have been issued, and enforce compliance with the provision of this code.”

(4) 105 *Permits*: Insert the words “Licenses and” in the title so that it reads “Licenses and Permits.”

(5) 105.1 *General*: Insert the words “Licenses and” before the word “Permits.” Whenever the term “permit” is used in the International Fire Code, it is to be replaced by the term “licenses or permits as determined by the fire code official.”

(6) 105.1.1 *Permits required*: Delete Section 105.1.1 in its entirety and insert in lieu thereof a Section 105.1.1 to read as follows:

“105.1.1 *License or permits required*: Licenses or permits required by this code shall be obtained from the fire code official. License or permit fees, if any, shall be paid prior to the issuance of the license or permit. Issued licenses or permits, and approved construction documents regulated by this code shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official, or his designee.”

(7) 105.1.2 *Types of permits*: Delete Section 105.1.2 in its entirety and insert in lieu thereof a Section 105.1.2 to read as follows:

“105.1.2 *Types of licenses or permits*:

1. *Operational license*: An operational license shall be required to engage in any business, trade or occupation for which a license is required by Section 105.6 of this code. Said license shall be issued by the fire code official for a calendar year at the cost of \$50.00 and shall be renewed annually at an additional cost of \$50.00 for each renewal and for either:

- 1.1 A prescribed period, or
- 1.2 Until renewed or revoked.

2. *Construction permit*: A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7 of this code. Said permit shall be set at the minimum costs referenced

(8) 105.2.3. *Time limitation of application*: Delete the number “180” in line three and insert in lieu thereof the number “90.”

(9) 105.3.1 *Expiration*: Delete the number “180” and insert in lieu thereof the number “90” each time it appears in this section.

- (10) 105.6.47. Add a new subsection 105.6.47, *New processes, trades, occupations, or activities requiring licenses or permits*, to read as follows:

“105.6.47 *New processes, trades, occupations, or activities requiring licenses or permits*: The city manager or his designee, chief of the fire department or his designee, the code official or his designee, and the fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new processes, trades, occupations, or activities which shall require permits or licenses in addition to those now enumerated in this chapter. The fire code official shall make such list available for review upon request and provide copies thereof to interested persons.”

- (11) 105.6.48. Add a new subsection 105.6.48 to read as follows:

“105.6.48 Group homes and nursing homes from the International Building Code, Sections 308.2 and 308.3.”

- (12) 105.6.49. Add a new subsection 105.6.49 to read as follows:

“105.6.49 Assisted living home from the International Building Code, Sections 308.2.”

- (13) 105.6.50. Add a new subsection 105.6.50 to read as follows:

“105.6.50 R-2, Fraternities and sororities, boarding house, Chapter 14, Code of the City of Newark.”

- (14) 107.2.1. Add a new Subsection 107.2.1.1, *Fire inspection certificates*, to read as follows:

“107.2.1.1 *Fire inspection certificates*: A Certificate of Inspection shall be submitted to the fire code official annually. Such Certificate of Inspection shall be in a form which is acceptable to said fire code official. Such certificate shall describe in detail any deficiency or deficiencies noted by the relevant inspector with respect to all fire protection or fire suppression systems inspected. The City of Newark shall charge an annual fee for these inspections as set forth in appendices of the current edition of the Delaware State Fire Prevention Regulations.”

- (15) 108.1.1 Add a new subsection 108.1.1, *Application for appeal*, to read as follows:

“108.1.1 *Application for appeal*: Appeals shall be made in writing, citing the decision of the fire code official, fire marshal, or fire prevention inspector from which the appeal is made and giving the reason for said appeal. A fee of \$500.00 dollars for appeals involving commercial structures, or a fee of \$100 dollars for appeals involving residential structures, shall accompany each appeal to help offset the cost of the hearing. Appeals regarding registered

historic buildings shall comply with the regulations set forth in Section 7-20, Code of the City of Newark, Delaware.”

- (16) 109.3 *Violation penalties*. Delete Section 109.3 in its entirety and insert in lieu thereof a new Section 109.3 to read as follows:

“109.3 *Violation penalties*: Any person, firm, corporation, partnership, or representative thereof, who fails to comply with the provisions of Chapter 14, Code of the City of Newark, Delaware, shall be guilty of a violation and upon conviction, shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or imprisonment for not more than 30 days, or both, and the further sum of \$100.00 for each and every day that such violation is permitted to continue. For the purpose of this section, the violation of any section of Chapter 14 shall constitute a separate offense. Invocation of the above penalties shall not preclude the fire code official of the City of Newark from instituting appropriate action or proceedings to prevent an illegal act, conduct, business, or use in or about the premises.”

- (17) 109.4 Add a new subsection 109.4 *Work commencing before permit issuance*, to read as follows:

“109.4 *Work commencing before permit issuance*: Any person who commences any work on a building, structure, electrical, mechanical, fire protection or suppression, or plumbing system before obtaining the necessary permit shall be subject to 100 percent of the usual permit fee in addition to the required permit fees.”

- (18) 113.5 *Refunds*. Delete Section 113.5 *Refunds* in its entirety and insert in lieu thereof a new Section 113.5 to read as follows:

“113.5 *Refunds*: There shall be no refund of any permit fees once the permit has been issued.”

- (19) 202 *General definitions*: Amend Section 202 by adding the following in their alphabetic sequence:

“Chief of the fire department: The fire chief of the Aetna Hose, Hook and Ladder Company, Inc.

Electrical code: Where ICC Electrical Code is mentioned in the IFC, it shall be replaced with the current adoption of NFPA 70, National Electric Code.

Fire department: The Aetna Hose, Hook and Ladder Company, Inc.

Fire code official: The planning and development director of the City of Newark, or his designee.

Legal council: The solicitor of the City of Newark.

License: The authority issued by the fire code official for conduction of a business, trade, or occupation for a defined period.

Municipality: The City of Newark, Delaware.

Permit: The permission to engage in any process, trade, occupation, or activity, which produces conditions hazardous to life and property.

Police department: The City of Newark police department.”

- (20) 307.1 *Open burning, recreational fire and portable outdoor fireplaces*: Delete Section 307.1 and insert in lieu thereof a new Section 307.1 to read as follows:

“307.1 *Open burning, recreational fire and portable outdoor fireplaces*: There shall be no open burning, bonfires, recreational fires, or fires in portable outdoor fireplaces within the City of Newark.

Exception: Portable outdoor fireplaces used at detached one-and two family dwellings.”

- (21) 503.1.2 *Additional access*: Amend Section 503.1.2 by adding thereto a new subsection 503.1.2.1 to read as follows:

“503.1.2.1 *Additional access*: A minimum of two points of fire department access shall be provided to all new major and minor subdivisions, as defined by Chapter 27 of this code.”

- (22) 503.2.1 *Dimensions*. Delete Section 503.2.1 in its entirety and insert in lieu thereof a new Section 503.2.1 to read as follows:

“503.2.1 *Dimensions*: Fire apparatus access roads shall have an unobstructed width of not less than 24 feet. Security gates shall not interfere with the unobstructed width of the fire lane, and shall be approved and installed in accordance with IFC Section 503.6. Fire apparatus roadways shall have a minimum unobstructed vertical clearance of not less than 14 feet.”

- (23) 503.2.3 *Surface*. Delete Section 503.2.3 in its entirety and insert in lieu thereof a new Section 503.2.3 to read as follows:

“503.2.3 *Surface*: All fire department access roadways shall be constructed in accordance with current Delaware Department of Transportation (DelDOT) standards.”

- (24) 503.2.4 *Turning radius*. Delete Section 503.2.4 in its entirety and insert in lieu thereof a new Section 503.2.4 to read as follows:

“503.2.4 *Turning radius*: The required turning radius of a fire apparatus access road shall be within the limits determined by using the most restrictive fire apparatus owned or operated by the fire department.”

- (25) 503.2.7 *Grade*. Delete Section 503.2.7 in its entirety and insert in lieu thereof a new Section 503.2.7 to read as follows:

“503.2.7 *Grade*: The grade of the fire apparatus access road shall not exceed 6% on hills, 3% in valleys, and/or exceed the clearance tolerances of any fire apparatus owned or operated by the fire department.”

- (26) 503.2.8 *Angles of approach and departure*. Delete Section 503.2.8 in its entirety and insert in lieu thereof a new Section 503.2.8 to read as follows.

“503.2.8 *Angles of approach and departure*: The angles of approach and departure for fire apparatus roadways shall be within the limits determined by using the most restrictive fire apparatus owned or operated by the fire department.”

- (27) 503.3 *Marking*. Delete Section 503.3 in its entirety and insert in lieu thereof a new Section 503.3 to read as follows:

“503.3 *Marking*: Marking of fire lanes, standpipes, sprinkler connections, hydrants, and exits shall be marked as prescribed within the currently adopted edition of the Delaware State Fire Prevention Regulations.”

- (28) 503.3.3.1 Amend Section 503.3 by adding thereto a new subsection 503.3.1, *Paving blocks*, to read as follows:

“503.3.1 *Paving blocks*: Where bricks, decorative stone, or a similar type paving block is used as the surface for a fire apparatus access roadway, the surface shall be marked as required by the fire code official.”

- (29) 506.1 *Where required*. Amend Section 506.1 by adding thereto a new subsection 506.1.2 *Knox box*, to read as follows:

“506.1.2 *Knox box*: A Knox Box® shall be provided at each structure that contains a fire protection system, specifically keyed for use by the fire department. The location of this Knox Box shall be determined by the fire marshal, or fire inspector, with advice from the chief of the fire department, or his designee. The Knox Box shall contain all keys needed to access rooms within the structure that contain a fire protection system.

Exceptions:

1. One- and two-family dwellings”

(30) 507.4 *Water supply test*. Delete Section 507.4 in its entirety and insert in lieu thereof a new Section 507.4 to read as follows:

“507.4 *Water supply test*: Water supply tests shall be conducted by the City of Newark water and waste water department. Fees for the tests shall be set by the water department director. Water supply tests shall be conducted in the immediate area of the system installation, and conducted not more than one calendar year prior to the submittal date of the fire suppression system plan submittal.”

(31) 509.1 *Identification*. Amend Section 509.1 by adding thereto a new subsection 509.1.1 to read as follows:

“509.1.1 *Identification*: For rooms that contain fire protection equipment, the following signs shall be attached to the door leading to the room:

- a. Exterior doors shall have a 12” x 18” sign permanently mounted to the door. The sign shall be white with 3 inch high red Scotchlite® lettering stating “Sprinkler Riser Room.”
- b. Interior doors shall have a 3” x 6” red label with ¾” yellow lettering stating “Sprinkler Riser Room,” and/or “Fire Alarm Panel (FAP).”

(32) 902 *Definitions*. Amend Section 902 by adding the following definition in alphabetical sequence:

“*Automatic fire detection system*: Where an automatic fire detection system is mentioned in the provisions of Chapter 14 and/or Chapter 7, Code of the City of Newark, it shall refer to the following fire alarm system components:

- a) For any occupancy type located below a residential occupancy, a minimum of one smoke detector shall be installed per floor.
- b) A minimum of one manual pull station shall be provided for each floor at or above grade level, below a residential occupancy.
- c) A minimum of one horn strobe shall be provided for each floor below a residential occupancy.
- d) A minimum of one horn/strobe shall be provided in each residential unit located above any occupancy type. This horn/strobe shall comply with the sound levels associated with the sleeping areas as defined by the notification appliances for fire alarms section of NFPA 72.

(33) 903.2.1. Delete Section 903.2.1 in its entirety and insert in lieu thereof a new Section 903.2.1 to read as follows:

a) All new structures, except those within approved subdivisions where building, plan authorization to proceed, or utility permits have been issued and work called for in the permit or authorization has begun on the subdivision. For subdivision approved for construction in section or phases, the exception herein shall apply only if building, site, construction improvement plan, authorized construction, or utility permits for that section or phase have been issued and construction on that phase of the subdivision has commenced therein prior to the original adoption of this section on January 5, 2002:

Exception:

- (1) Agricultural buildings unoccupied by humans shall be exempt from this requirement, unless such system is required under the Delaware State Fire Prevention Code or International Building Code.
 - (2) Parking garages exempt under the International Building Code or the Delaware State Fire Prevention Code shall be exempt from this requirement.
 - (3) Temporary structures as defined by the International Building Code shall be exempt from this requirement, and such temporary structures receiving a three months (90 day) maximum in extensions of temporary structures shall, with the approval of the Board of Building Appeals, also be exempted from this requirement.
- (b) All residential accessory structures 1500 square feet or larger and commercial accessory structures of 750 square feet or larger, with a maximum of one accessory structure per property. All prefabricated non- accessory use structures moved into or within the city from one tax parcel to a different tax parcel. Accessory building or structures as that term is employed in this subsection shall refer solely to detached or subordinate buildings, the use of which is incidental and subordinate to that of the main building on the same lot.
- (c) Any existing structure which undergoes a change in use to any of the following uses shall be sprinklered as follows:
- (1) Any residential occupancy
 - (2) Any change in use within an existing structure that contains residential occupancy:

Exception: A sprinkler system is not required if all five of the following conditions are met as determined by the fire code official:

- a. The part of the building to undergo change requires no increase in live loads as specified in Table 1607.1 of the International Building Code.

- b. The change does not result in an increase in the occupant load as determined by Section 1004.1 of this code, but in no case shall an exception be granted if the occupant load shall exceed 49 persons.
 - c. The building area does not exceed 2,000 square feet per floor;
 - d. The hazard classification, as defined by the most currently adopted edition of NFPA 101 is not increased.
 - e. An automatic fire detection system with a remote central station is installed.
- (3) Restaurants, including existing and take-out restaurants that are increased in size to a total occupant load of 100 or more.
 - (4) Nightclubs regardless of occupant load or size.
 - (5) Places of assembly, including existing places of assembly that are increased to an occupant load of 100 or more.
 - (6) Any new, expanded, or changed use or occupant load that, according to a written opinion by the planning and development department director, and with advice from the fire marshal, indicates there is or will be a potentially hazardous use. Such requirement, however, may be appealed to the Board of Building Appeals, under the requirement of this code.

(d) Any existing structure which has renovations at any one time to 50% or more of its interior area measured in square footage. Multiple renovations, that when accumulated equal more than 50% of the original structure, made to any one structure during a three year period from the date of the original permit approval, shall comply with this regulation.

(34) 903.3.1.3 NFPA 13D sprinkler systems. Amend Section 903.3.1.3 by adding thereto a new subsection 903.3.1.3.1 to read as follows:

“903.3.1.3.1 Where living space is provided directly above a garage, open attached porch, carport, or similar attached structure, the area below the living space shall be sprinklered.”

(35) 903.7 *Automatic sprinkler system room Access*. Add a new subsection 903.7 to read as follows:

“903.7 *Automatic sprinkler system room access*: Sprinkler system risers providing protection for buildings with multiple tenant spaces must be located in a ground floor room directly accessible from the exterior. The door must be labeled “sprinkler riser room” in accordance with Section 509.1.1(a) of this code. Buildings with a single tenant may access the riser location from the interior of the building, marked in accordance with Section 509.1.1(b) of this code.”

(36) 907.5.2 *Manual fire alarm boxes*: Amend Section 907.5.2 by adding thereto a new subsection 907.5.2.6 to read as follows:

“907.5.2.6 Manual alarm actuating devices shall be an approved double action type.”

(37) 3301.2.4. *Financial responsibility*. Delete Section 3301.2.4 in its entirety and insert in lieu thereof a new Section 3301.2.4 to read as follows:

“3301.2.4 *Performance bond*: A performance bond/certificate of liability insurance shall be submitted naming the City of Newark as the certificate holder in the following classifications:

- a. Unlimited general contractor – can pull permits for work worth more than \$1,000,000 and provides a bond in the amount of \$200,000.
- b. Limited general contractor – can pull permits for work worth \$1,000,000 or less and provides a bond in the amount of \$100,000.
- c. Unlimited subcontractor – electrical, fire protection, HVAC, mechanical, or plumbing contractor – can pull permits for work worth more than \$1,000,000 within specific trades and provides bond in the amount of \$200,000.
- d. Limited subcontractor – Electrical, fire protection, HVAC, mechanical, or plumbing contractor – can pull permits for work \$1,000,000 or less within specific trades and provides a bond in the amount of \$50,000.”

MOTION for Acceptance as First Reading on _____, 2010, by Council

Member _____.

Second Reading and Final Passage on _____, 2010.

VOTE: ____ to ____.

Mayor

Attest:

City Secretary

Approved as to Legality & Form

City Solicitor

BILL NO. 10-19
1st Reading _____
2nd Reading _____

CITY OF NEWARK
DELAWARE

ORDINANCE NO. 10-___

An Ordinance Amending Chapter 7, Building, Code of the City of Newark, Delaware, By Adopting the 2009 Edition of the International Code Council (ICC) Codes with Amendments and Incorporating Chapter 6, International Energy Code, and Chapter 8, International Fuel Gas Code Into Chapter 7

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 7, Building, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Delete Chapter 7, Building, in its entirety and insert in lieu thereof the following new language;

“CHAPTER 7 – BUILDING

Sec. 7-1 General.

(a) Definitions:

1. Building Official – The planning and development department director or his designee of the City of Newark and/or any of the authorized officers or inspectors of the code enforcement division.
2. Code Official - The planning and development department director or his designee of the City of Newark and/or any of the authorized officers or inspectors of the code enforcement division.
3. Contractor – Any person, firm, corporation, partnership, or representatives thereof who performs any type of repairs, construction, maintenance or excavation on any site, structure or equipment for compensation within the boundaries of the City of Newark.
4. Certificate of Completion – Where a building permit is issued for a project that does not require or grant a Certificate of Occupancy but is for significant new structures, additions, renovations or equipment, a Certificate of Completion shall be issued upon completion and approval of the project. These projects shall include, but not be limited to the following:

- a. Building shells
- b. Renovations: finishing basement, kitchen renovation, bath renovation, conversion of a porch or garage to habitable space, commercial renovations.
- c. Tenant fit – outs which are not a change of use
- d. Additions
- e. Pools, hot tubs, or spas
- f. Structural alterations
- g. Accessory structures, including detached garages, sheds, decks, gazebos, pavilions and the like
- h. Solar energy systems
- i. Elevators, lifts, escalators or similar facilities
- j. Fire protection systems, including automatic fire suppression systems and alarm systems

(b) Fee schedule. Permit fees shall be based upon the total value of all proposed construction and improvements:

Permits:

- 1. Building, plumbing, mechanical, electrical construction valued \$1 - \$1,000,000
 - First Million..... \$12/\$1,000
 - From \$1,000,001 – Total Value..... \$6/\$1,000
 - Minimum Fee..... \$50.00
 - 2. Demolition..... 250.00 + \$5.00 per 1,000 sq. ft.
 - 3. Annual Sign Fees:
 - Ground..... \$.75/sq.ft. Plus \$1.50/ft. in height
 - All others..... \$.75/sq.ft.
 - Minimum Fee..... \$45.00
 - 4. Moving a Structure \$500.00 + Building Permit fee
 - 5. Construction Trailer \$250.00 1st yr. + \$100.00 renewal fee
- Certificate of Completion..... \$40.00**

Certificate of Occupancy:

- 1. Single Occupancy Building (Commercial)..... \$100.00
- 2. Multiple Occupancy Bldg. (Comm/Res) per tenant \$100.00
- 3. Single Family Dwelling \$100.00
- 4. Multi-Family Dwelling \$100.00
(Per dwelling/rooming/unit)
- 5. Temporary Certificate of Occupancy..... \$250.00

Miscellaneous License and Fees:

- 1. Contractor's Registration..... Bonding Information + \$100.00
- 2. Elevator License..... \$50.00
- 3. Plan Review..... \$1.00 per \$1,000 Valuation
\$20.00 Minimum w/\$5,000 Maximum,
***Paid at time of application.
+ 50% for 3rd & subsequent submissions.

4. Return Inspections for Incomplete Work.....	\$50.00
5. Tent Permit.....	\$50.00
6. Fire License (per year)	\$50.00

(c) Contractor registration required. No contractor shall perform any building, electrical, excavation, fire protection, mechanical or plumbing work within the City of Newark without first obtaining a Certificate of Registration from the code official. A Certificate of Registration shall be granted if the code official finds the applicant is qualified to perform the work that the applicant requests. A Certificate of Registration shall not be granted if the applicant has outstanding violations of this code which have not been corrected for a period exceeding sixty (60) days; this shall not apply to violations for which an appeal is pending in accordance with this code. The applicant shall submit the following:

1. Application for Certificate of Registration. Application for certificate of registration shall be on a form provided by the code official. A renewal invoice shall be permitted to substitute for the application.
2. Current business license from the State of Delaware Department of Revenue.
3. Trade license (if applicable).
 - a. Electricians – electrical license from the State of Delaware Department of Professional Regulation.
 - b. Mechanical contractors – utility license from New Castle County.
 - c. Plumbers – plumbing license from the State of Delaware Department of Professional Regulation.
4. Performance Bond. A performance bond/certificate of liability insurance shall be submitted naming the City of Newark as the certificate holder in the following classifications:
 - a. Unlimited general contractor – may be issued permits for work worth more than \$1,000,000 and provides a surety in the amount of \$200,000.
 - b. Limited general contractor – may be issued a permit for work worth \$1,000,000 or less and provides a surety in the amount of \$100,000.
 - c. Unlimited subcontractor – electrical, fire protection, HVAC, mechanical, or plumbing contractor – may be issued permits for work worth more than \$1,000,000 within specific trades and provides a surety in the amount of \$200,000.
 - d. Limited subcontractor – electrical, fire protection, HVAC, mechanical, or plumbing contractor – may be issued for work \$1,000,000 or less within specific trades and provides a surety in the amount of \$50,000.
5. Registration fee in accordance with the fee schedule in Section 7-1 (b) above.
6. Expiration: The Certificate of Registration shall be valid for a period of one year from date of issuance and shall be renewed annually thereafter.
7. Homeowner’s exception: The provisions of this section regarding Certificate of Registration shall not apply to a homeowner intending to perform work on his own residence, provided no portion of the structure is offered for rent.

8. Revocation: The Certification of Registration may be revoked at any time by the building official for violation of the building code or ordinances or other laws or rules or regulations of this city, or other causes which, in the opinion of the building official, justify such action.

(d) Appeals.

1. General. Any person shall have the right to appeal the decision of the building official or code official regarding the application and interpretation of this code. There shall be and is hereby created a Board of Building Appeals. The Board of Building Appeals shall be appointed by the City Council and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business.
2. Application for appeal. Appeals to the Board of Building Appeals shall be in writing and on a form provided by the City of Newark. The applicant shall cite and attach the decision of the code enforcement officer from which the appeal is made and give the reason for said appeal. A fee of \$100 for residential zoned structures or of \$500 for all other structures shall accompany each application for appeal to partially offset the cost of the hearing. Appeals from section 7-19, Historic Buildings, shall not be heard through this process.
3. Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall not have the authority to waive requirements of this code.
4. Qualifications. Each member of the board shall be a licensed professional engineer or architect; or a builder or superintendent of building construction with at least ten years experience, five of which shall have been in responsible charge of work. Not more than two members shall be from the same profession or occupation, and at least one professional engineer shall be a structural or civil engineer with architectural engineering experience.

(e) As-built surveys. An as-built survey prepared by a State of Delaware licensed professional surveyor or civil engineer shall be required for new structures and additions to existing structures as follows:

1. Foundation as-built survey shall be provided once the foundation has been constructed and prior to commencement of framing in the following instances:
 - a. All new structures other than residential accessory structures.
 - b. At any time when a variance to required area specifications was required for construction approval.
 - c. Where required by the building official.
2. Complete as-built survey showing all improvements, utilities, easements, required buffers and other items as required by the City of Newark shall be provided at the time of application for the following:
 - a. Certificate of Completion for a building shell of a multi-unit structure where separate Certificates of Occupancy are required for individual tenant spaces.
 - b. Certificate of Occupancy of a new single-occupancy structure.
 - c. Where required by the building official.

- (f) Violation penalties: Any person, firm, corporation, partnership, or representative thereof, who fails to comply with Chapter 7, Code of the City of Newark, shall be guilty of a violation and upon conviction, shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or imprisonment for not more than thirty (30) days, or both, and the further sum of \$100.00 for each and every day that such violation is permitted to continue. For the purposes of this section, the violation of any section of Chapter 7, Code of the City of Newark, shall constitute a separate offense. Invocation of the above penalties shall not preclude the building official of the City of Newark from instituting appropriate action or proceedings to prevent an illegal act, conduct, business, or use in or about the premises.

Sec. 7-2. Savings clause.

Nothing in this chapter or in the code hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby.

Sec 7-3. Adoption of the 2009 International Building Code.

There is hereby adopted by the City of Newark for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings, structures, and premises, that certain code known as the ICC International Building Code, of which not less than three copies have been and are now on file in the office of the code enforcement division, being in particular the 2009 edition thereof and all of the nationally recognized standards referred to and incorporated into that code, together with any and all supplements thereto, except such articles and sections as are hereinafter deleted, modified, or amended.

Sec. 7-4. Amendments made to the 2009 International Building Code.

The 2009 International Building Code is hereby amended and changed in the following respects:

1. 101.1 *Title*: Insert the words “the City of Newark, Delaware” within parenthesis of this section.
2. 101.2.1 *Appendices*: Appendix “F” is adopted as part of this code.
3. 103.4 *Bonds*: Add a new Section 103.4 to read as follows:

“103.4 *Bonds*: The building official, before entering upon his duties of said office, shall enter into bond with the council of Newark in the sum of \$4,000.00 with one or more sureties approved by the council of Newark. Said bond shall be conditioned for the faithful performance of the duties of his office and shall contain a warrant of attorney for confession of judgment thereon. There shall also be a bond entered into with the Council of Newark in the sum of \$2,000.00 for the code enforcement supervisor and each of the code enforcement officers.”

4. 103.5 *Oaths*: Insert a new Section 103.5 to read as follows:

“103.5 *Oaths*: Before entering upon the duties of their offices, they shall be required to take and subscribe to an oath of office as provided for in Article XI, Section 1102, of the Newark City Charter.”

5. 105.1.1 *Annual permits*: Delete Section 105.1.1 in its entirety.
6. 105.1.2 *Annual Permit Records*: Delete Section 105.1.2 in its entirety
7. 105.2 *Work exempt from permit*: Delete Section 105.2 in its entirety and insert in lieu thereof a new Section 105.2 to read as follows:

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

a. BUILDING.

1. One-story detached playhouses provided the floor area does not exceed 120 square feet (11.5m²).
2. Oil derricks.
3. Retaining walls which are not over four (4) feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding class I, II, or III-A liquids.
4. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925L) and the ratio of height to diameter or width does not exceed 2:1.
5. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
6. Temporary motion picture, television and theater stage sets and scenery.
7. Pre-fabricated swimming pools accessory to Group R-3 occupancy which are less than twenty-four (24) inches (610 mm) deep, do not exceed 5,000 gallons (18,925L) and are installed entirely above ground.
8. Shade cloth structure constructed for nursery or agriculture purposes, not including service systems.
9. Swings and other playground equipment accessory to detached one- and two-family dwellings.
10. Window awnings supported by an exterior wall of Group R-3, as applicable in Section 101.2.
11. Non-fixed and movable fixtures, cases, counters, racks, and partitions not over 5 feet 9 inches (1753 mm) in height provided there is no electric equipment.

b. ELECTRICAL.

1. *Repairs and maintenance*: Minor repair work, which shall not include the installation of any new wiring, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

2. *Radio and television transmitting stations:* The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply, and the installations of towers and antennas.
3. *Temporary testing systems:* A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

c. GAS.

1. Portable heating appliance provided no new piping is required.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

d. MECHANICAL.

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

e. 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.

3. The replacement of fixtures other than shower valves and grease interceptors, fixtures may be replaced in kind provided such replacement does not require the rearrangement or relocation of valves, pipes or the fixtures.
8. 105.3.2 *Time limitations of applications*: Delete the number “180” in the third line and insert in lieu thereof the number “90.”
9. 105.5 *Expiration*: Delete the number “180” in the third, fifth, and seventh lines of the section and insert in lieu thereof the number “90” in all three lines.
10. 107.2.5 *Site plan*: Add the following new paragraph to Section 107.2.5 *Site Plan* to read as follows:

“The requirement that plot plans shall be prepared by a professional land surveyor registered with the State of Delaware may be waived by the building official in cases where the certification of accuracy is not deemed necessary to insure compliance to building, zoning and other ordinance requirements.”
11. 107.3.1 *Approval of construction documents*. Delete in its entirety and insert in lieu thereof a new Section 107.3.1 to read as follows:

“107.3.1 *Approval of construction documents*: When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as “Approved.” One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.”
12. 109.2 *Schedule of permit fees*. Delete Section 109.2 in its entirety and insert in lieu thereof a new Section 109.2 to read as follows:

“109.2 *Schedule of permit fees*: The fees shall be calculated in accordance with the current permit fee schedule as adopted in Chapter 7, Article 1, Section 7-1(b).”
13. 109.4 *Work commencing before permit issuance*: Delete Section 109.4 in its entirety and insert in lieu thereof a new Section 109.4 to read as follows:

“109.4 *Work commencing before permit issuance*: Any person who commences any work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required permit fees.”
14. 109.6 *Refunds*: Delete Section 109.6 in its entirety and insert in lieu thereof a new Section 109.6 to read as follows:

“109.6 *Refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”
15. 109.7 *Voluntary fee waivers for tax exempt historic properties*. Add a new Section 109.7 to read as follows:

“ 109.7 *Voluntary fee waivers for tax exempt historic properties*: Building permit fees established in this chapter may not be required for properties specified in Section 7-19(c) of this chapter that are owned by the University of Delaware, the

Christina School District, the Aetna Hose Hook & Ladder Company, and other real estate tax-exempt institutions, except that payment shall be required for any portion of such fees exceeding \$5,000.00 per permit, subject to the following procedures and requirements:

1. Such building permit fee waivers shall be applicable only for exterior architectural facade improvements to property defined as preservation, rehabilitation, and/or restoration in Section 7-19(b) of this chapter.
 2. Such building permit fee waivers shall not be available to those property owners requiring certificates of economic hardship for demolition of the properties, defined in Section 7-19(e) of this chapter.
 3. Building permit fee waivers shall be reviewed and approved as follows:
 - (a) Applicants shall submit a letter requesting a building permit fee waiver with a building permit application to the planning and development department/code enforcement division.
 - (b) Fee waiver request submittals shall include the type and number of plans and specifications required for a building permit and, in addition, plan specifications showing the impact of the proposed work on the exterior architectural facade of the building, as defined in Section 7-19(b) of this chapter.
 - (c) Fee waiver request submittals shall include current color photographs of the property showing the present condition, accurately representing the existing materials and texture. All photographs shall be labeled to indicate direction of view.
 - (d) Other information may be required by the building official to facilitate review of such fee waiver submittals.
 - (e) The planning and development department shall review the submitted plans, specifications, and related information, for compliance with the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. This department may consult with the Historic Preservation Technical Advisory Committee established in Section 7-19(1) of this chapter to assist in the review of fee waiver submittals.
 - (f) The planning and development department shall issue a written statement approving, approving with conditions, or disapproving the fee waiver request, with copies to the city manager. Applicants shall have the right to appeal fee waiver disapproval to city council."
16. 113 *Board of Appeals*. Delete Section 113 in its entirety and insert in lieu thereof a new Section 113 and a new subsection 113.1 to read as follows:

"113 *Board of Appeals*."

"113.1 *Application for Appeals*: An appeal may be made from a decision of the code official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d)."

17. 114.4 *Violation penalties*. Delete Section 114.4 in its entirety and insert in lieu thereof a new Section 114.4 to read as follows:

“114.4 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).”

18. 115.3 *Unlawful continuance*: Delete Section 115.3 in its entirety and insert in lieu thereof a new Section 115.3 to read as follows:

“ 115.3 *Unlawful continuance*: Any person who shall continue and work in or about the structure after having been served with a stop-working order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the penalties as set forth in Section 114.4 as amended.”

19. 310.1 *Residential Group R*. Add the following language:

“310.1 *Residential Group R*: For all structures approved after September 26, 2005, the following security systems shall be required:

- All exterior doors shall be self-closing and equipped with approved lockable device to prohibit unlawful or unwanted entry; such devices, however, shall not interfere with required egress.
- All sliding glass exterior doors shall be equipped with an approved lockable bar device.
- All doorways providing access to individual units shall have an approved peephole device installed.
- All public exterior passageways, including public stairways, open parking spaces and carports, parking garages, and access ways to garages and carports, must be illuminated with light having an intensity of not less than one and one-half (1½) foot candles at grade level. Such lighting, however, shall be deflected so as not to impact adjacent properties and public right-of-way.”

20. Delete Section 903.2.1 through 903.2.12 in their entirety and insert in lieu thereof the following language:

“903.2.1: All new structures, except those within approved subdivisions where building, plan authorization to proceed, or utility permits have been issued and work called for in the permit or authorization has begun on the subdivision. For subdivisions approved for construction in sections or phases, the exception herein shall apply only if building, site, construction improvements plan, authorized construction, or utility permits for that section or phase has been issued and construction on that phase of the subdivision has commenced therein prior to the original adoption of this section on August 27, 2001:

- (a) Agricultural buildings unoccupied by humans shall be exempt from this requirement, unless such system is required under the Delaware State Fire Prevention Code or International Building Code.

- (b) Parking garages exempt under the International Building Code or the Delaware State Fire Prevention Code shall be exempt from this requirement.
- (c) Temporary structures as defined in the International Building Code shall be exempt from this requirement, and such temporary structures receiving a three month (90 day) maximum in extensions of temporary structures shall, with the approval of the Board of Building Appeals, also be exempt from this requirement.

903.2.2: All residential accessory structures 1500 square feet or larger and commercial accessory structures of 750 square feet or larger, with a maximum of one accessory structure per property. All prefabricated non-accessory use structures moved into or within the city from one tax parcel to a different tax parcel. 'Accessory building or structures' as that term is employed in this subsection shall refer solely to detached or subordinate buildings, the use of which is incidental and subordinate to that of the main building on the same lot.

903.2.3: Any existing structure which undergoes a change in use to any of the following uses shall be sprinklered as follows:

- (a) Any residential occupancy.
- (b) Any change in use within an existing structure that contains a residential occupancy.

Exception: A sprinkler system is not required if all five of the following conditions are met as determined by the building official:

1. The part of the building to undergo change requires no increases in live loads as specified in Table 1607.1 of this code;
 2. The change does not result in an increase in occupant load as determined by Section 1004.1 of this code, but in no case shall an exception be granted if the occupant load shall exceed 49 persons;
 3. The building area does not exceed 2,000 square feet per floor;
 4. The hazard classification, as defined by the most currently adopted edition of the NFPA 101 is not increased; and
 5. An automatic fire detection system as defined in Chapter 14 of the code of the City of Newark, which reports to a remote central station is installed;
- (c) Restaurants, including existing and take-out restaurants that are increased in size to a total occupant load of 100 or more;
 - (d) Nightclubs regardless of occupant load or size;
 - (e) Places of assembly, including existing places of assembly that are increased to an occupant load of 100 or more; and
 - (f) Any new, expanded, or changed use or occupant load that, according to a written opinion by the building official, and with the advice of the fire marshal, indicates there is or will be a

potentially hazardous use. Such requirement, however, may be appealed to the Board of Building Appeals, in accordance with Chapter 7, Article I, Section 7-1(d).”

903.2.4: Any existing structure which undergoes renovations at any one time to 50% or more of its interior area measured in square footage. Multiple renovations, which when accumulated are made to more than 50% of the original structure, made to any one structure during a three year period from the date of the original permit approval, shall comply with this regulation.

903.2.5. *Rubbish and linen chutes:* An automatic sprinkler system shall be installed at the top of the rubbish and linen chutes and in their terminal rooms. Chutes extending through three or more floors shall have additional sprinkler heads installed within such chutes at alternate floors. Chute sprinklers shall be accessible for servicing.

903.2.6. *During construction.* Automatic sprinkler systems required during construction, alteration, and demolition operations shall be provided in accordance with the International Fire Code.

903.2.7. *Other hazards.* Automatic sprinkler protections shall be provided for the hazards indicated in Sections 903.2.7.1 and 903.2.7.2.

903.2.7.1. *Ducts conveying hazardous exhaust:* Where required by the International Mechanical Code, automatic sprinklers shall be provided in ducts conveying hazardous exhausts, or flammable or combustible materials.

Exception: Ducts in which the largest cross-sectional diameter of the duct is less than 10 inches (254 mm).

903.2.7.2. *Commercial cooking operations:* An automatic sprinkler system shall be installed in commercial kitchen exhaust hood and duct system where an automatic sprinkler system is used to comply with Section 904.

“903.2.8. *Other required suppression systems:* In addition to the requirements of Section 903.2, the provisions indicated in Table 903.2.8 also require the installation of a suppression system for certain buildings and areas.

**TABLE 903.2.8
ADDITIONAL REQUIRED SUPPRESSION SYSTEMS”**

SECTION	SUBJECT
402.9	Covered Malls
403.2, 403.3	High-rise Buildings
404.3	Atriums
405.3	Underground Structures
407.5	Group I-2
410.6	Stages
411.4	Special Amusement Buildings
412.4.6, 412.4.6.1, 412.4.6.5	Aircraft Hangers
415.6.2.4	Group H-2
416.4	Flammable Finishes
417.4	Drying Rooms

507	Unlimited Area Buildings
IFC	Sprinkler Requirements as set Forth in Section 903.2. 11.6 of the International Fire Code

21. 1103.2.2. *Existing buildings*. Delete the words “Section 3411” and insert in lieu thereof the words “Chapter 34 as Amended.”
22. 1805.1. *General*. Delete the words “and dampproofed:” Replace the comma after the word “Section” with a “period” and delete the remaining sentence.
23. 1805.1.1. *Story above grade plane*. Replace the word “dampproofed” with “waterproofed” and replace “Section 1805.2” with “Section 1805.3” and delete the remaining sentence.
24. 1805.1.3. *Ground- water control*. Replace the word “dampproofed” with “waterproofed” & replace “Section 1805.2” with “Section 1805.3.”
25. 1805.2 *Dampproofing*. Add the words “and walls and floors not required to be waterproofed by Section 1805.3,” after the word “systems” in the first sentence.
26. 1805.3 *Waterproofing*. Delete Section 1805.3 in its entirety and insert in lieu thereof a new Section 1805.3 to read as follows:

“1805.3: *Waterproofing*: All basements and all crawl spaces containing mechanical equipment such as furnaces, boilers, water heaters, etc, shall be waterproofed in accordance with this section.

Exception: Basements & crawl spaces with finished floor levels at or above the exterior finished grade around the entire perimeter of the structure.”
27. 1805.3.2 *Walls*. In the second paragraph, delete the words “less than 12 inches (305 mm) above the maximum elevation of the ground-water table” and insert the words “more than 6 inches (152 mm) below finished grade.” Delete the second sentence in its entirety.
28. 1805.4 *Subsoil drainage system*. Delete Section 1085.4 in its entirety and insert in lieu thereof a new Section 1805.4 to read as follows:

“1805.4 *Subsoil drainage system*: Where waterproofing is required by Section 1805.3 as amended, a subsoil drainage system shall be provided in accordance with this section.”
29. 1809.5 *Frost protection*. Revise Method 1 to read as follows:
 1. “The bottom of all footings shall be at least 32 inches (812.8 mm) below the finished grade.”
 2. Delete Exception #2 in its entirety and insert new language to read as follows:

“Area of 200 square feet (18.6 m²) or less; and”
30. 2703 *Meter location*. Add a new Section 2703 to read as follows:

“2703 Meter location: Approval for meter locations shall be obtained from the electric department prior to the installation of electric wiring.”

31. *2704 During installation and final inspection test.* Add a new Section 2704 to read as follows:

“2704 During Installation and Final Inspection Test: Final inspection and tests shall be done by a State of Delaware licensed independent electrical agency.”

32. *3303.4 Vacant lot.* Add the following new sentence to Section 3303.4 to read as follows:

“3303.4 Vacant lot: Foundations shall be removed at least 18 inches below grade. All holes and disturbed areas shall be covered with topsoil and seeded.”

33. *3303.6 Utility connections.* Add the following paragraph to Section 3303.6:

“3303.6 Utility connections: The water and sewer laterals are to be disconnected and capped at the curb box. However, if the curb box is situated under the sidewalk, it will be permissible to seal these pipes at the point several feet within the property line. The exact dimensions will be taken by the code enforcement officer and recorded in city hall.”

34. *3307.2 Construction barriers.* Add a new Subsection 3307.2 to read as follows:

“3307.2 Construction barriers: Where construction, demolition or remodeling work is proposed within ten feet (10’) of adjoining property, a temporary barrier or fence shall be erected on the property under construction, a minimum of four feet (4’) in height protecting the adjoining property from construction activities and traffic.”

Exceptions: A construction barrier shall not be required where any of the following apply:

1. Where both properties are owned by the same property owner.
2. A notarized property use agreement signed by both property owners has been submitted to the code official which specifies construction activities permitted on the adjoining property, construction activities prohibited on the adjoining property, and photographic documentation of the current conditions.
3. Where the construction proposed is for an accessory structure greater than three feet from the property line on a single family residential lot.
4. Where waived by the code official. Such waiver may be revoked at any time in writing.

35. *3401.1 Scope:* Delete Section 3401.1 in its entirety and insert in lieu thereof a new Section 3401.1 to read as follows:

“3401.1 Scope: The provisions of this chapter shall apply to the repair, alteration, change of occupancy, addition and relocation of existing structures.”

36. 3401.1.1 *Criteria*: Add new Subsection 3401.1.1 to read as follows:

“3404.1.1 *Criteria*: The repair, alteration, change of occupancy, addition and relocation of existing structures shall be in accordance with the International Existing Building Code as amended.”

37. Delete the remaining language in Chapter 34.

Sec. 7-5. Adoption of the 2009 International Existing Building Code.

There is hereby adopted by the City of Newark for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location, and maintenance of buildings, structures, and premises, that certain code known as the ICC International Existing Building Code, of which not less than three copies have been and are now on file in the office the code enforcement division, being in particular the 2009 edition thereof and all of the nationally recognized standards referred to and incorporated into that code, together with any and all supplements thereto, except such articles and sections as are hereinafter deleted, modified, or amended.

Sec. 7-6. Amendments made to the 2009 International Existing Building Code.

The 2009 International Existing Building Code is hereby amended and changed in the following respects:

1. 101.1 *Title*: Insert the words “the City of Newark, Delaware” within the parenthesis in this section.
2. 101.2 *Scope*: Add a new exception to read as follows:

“*Exception*: Detached one- and two-family dwellings and multiple single family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code.”

3. 105.2 *Work exempt from permit*: Under “Building” Delete item 1 in its entirety.
4. 105.3.2 *Time limitations of application*: Delete the number “180” in the line 3 and insert in lieu thereof the number “90.”
5. 105.5 *Expiration*: Delete the number “180” in line three, four and seven and insert in lieu thereof the number “90” in all three lines.
6. 106.3.1 *Approval of construction documents*. Delete Section 106.3.1 in its entirety and insert in lieu thereof a new Section 106.3.1 to read as follows:

“106.3.1 *Approval of construction documents*: When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as “Approved.” One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

7. “108.2 *Schedule of permit fees*. Delete Section 108.2 in its entirety and insert in lieu thereof a new Section 108.2 to read as follows:

“108.2 *Schedule of permit fees*: The fees shall be calculated in accordance with the current permit fee schedule as adopted in Chapter 7, Article 1, Section 7-1(b).”

8. 108.6 *Refunds*: Delete Section 108.6 in its entirety and insert in lieu thereof a new Section 108.6 to read as follows:

“108.6 *Refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”

9. 112 *Board of Appeals*. Delete Section 112 in its entirety and insert in lieu thereof a new Section 112 and a new Subsection 112.1 to read as follows:

“112 *Board of Appeals*. ”

“112.1 *Application for Appeal*. An appeal may be made from a decision of the code official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d).”

10. 113.4 *Violation penalties*. Delete Section 113.4 in its entirety and insert in lieu thereof a new Section 113.4 to read as follows:

“113.4 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).”

11. 114.3 *Unlawful continuance*: Delete Section 114.3 in its entirety and insert in lieu thereof a new Section 114.3 to read as follows:

“114.3 *Unlawful Continuance*: Any person who shall continue and work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the penalties as set forth in Section 113.4 as amended.”

12. 118 *Sprinkler Systems*. Add a new Sections 118 *Sprinkler systems* and a new Subsection 118.1 *Where required* to read as follows:

“118 *Sprinkler Systems*. ”

“118.1 *Where required*: A sprinkler system shall be installed where required by Sections 903.2.2 through 903.2.8 of the International Building Code as amended.”

Sec. 7-7. Adoption of the 2009 International Energy Conservation Code.

There is hereby adopted by the City of Newark for the purpose of establishing rules and regulations which establish the minimum regulations governing the energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations provision, penalties, conditions, and terms of said Energy Conservation Code, of which not less than three copies have been and are now on file in the office of the code enforcement division, being in particular, the 2009

International Energy Conservation Code and all of the nationally recognized standards recognized standards to and incorporated into that code, part hereof, as if fully set out in this ordinance, except such articles and section as are hereinafter deleted, modified, or amended.

Sec. 7-8. Amendments made to the 2009 International Energy Conservation Code.

The 2009 International Energy Conservation Code is hereby amended and changed in the following respects:

1. 101.1 *Title*: Insert “the City of Newark” within parenthesis of this section.
2. 103.3.1 *Approval of construction documents*. Delete Section 103.3.1 in its entirety and insert in lieu thereof a new Section 103.3.1 to read as follows:

“103.3.1 *Approval of construction documents*: When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as “Approved.” One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

3. 107.5 *Refunds*: Delete Section 107.5 in its entirety and insert in lieu thereof a new Section 107.5 to read as follows:

“107.5 *Refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”

4. 108.4 *Failure to comply*: Delete Section 108.4 in its entirety and insert in lieu thereof of a new Section 108.4 to read as follows:

“108.4 *Failure to Comply*: Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the penalties as set forth in Section 108.5 as amended.”

5. 108.5 *Violation penalties*: Add a new Section 108.5 to read as follows:

“108.5 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).”

6. 109 *Board of appeals*. Delete Section 109 in its entirety and insert in lieu thereof a new Section 109 and a new Subsection 109.1 to read as follows:

“109 *Board of appeals*. ”

“109.1 *Application for appeal*: An appeal may be made from a decision of the Code Official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d).”

Sec. 7-9. Adoption of the 2009 International Plumbing Code.

There is hereby adopted by the City of Newark for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings, and structures and premises, that certain code known as the International Plumbing Code, of which not less than three copies have been and are now on file in the office of the code enforcement division, being in particular in the 2009 edition, with supplements thereof, and all of the nationally recognized standards referred to and incorporated into that code, together with any and all supplements thereto, except such articles and sections as are hereinafter deleted, modified or amended.

Sec. 7-10. Amendments made to the 2009 International Plumbing Code with Supplements.

The 2009 International Plumbing Code is hereby amended and changed in the following respects:

1. 101.1 *Title*: Insert “the City of Newark, Delaware” in the blank on the second and third lines.
2. 103.1 *General*. Delete Section 103.1 in its entirety and insert in lieu thereof a new Section 103.1 to read as follows:

“103.1 *General*: The department charged with enforcement of this chapter shall be the code enforcement division, and the executive official in charge of said division shall be known hereafter as the code official.”
3. 106.2 *Exempt work*: Insert a new Item 3 to read as follows:

“3. The replacement of fixtures other than shower valves and grease interceptors, fixtures may be replaced in kind provided such replacement does not require the rearrangement or relocation of valves, pipes or the fixture(s).”
4. 106.3.3 *Time limitation on application*: Delete the number “180” in lines three and seven and insert the number “90” in both lines.
5. 106.5.3 *Expiration*: Delete the number “180” in lines four and seven and insert the number “90” in both lines. Delete the language following the word “obtained” in line eight and insert a “period.”
6. 106.6.2 *Fee schedule*. Delete Section 106.6.2 in its entirety and insert in lieu thereof a new Section 106.6.2 to read as follows:

“106.6.2 *Fee schedule*: The fees shall be calculated in accordance with the current permit fee schedule as adopted in Chapter 7, Article I, Section 7-1 (b).”
7. 106.6.3 *Fee refunds*. Delete Section 106.6.3 in its entirety and insert in lieu thereof a new Section 106.6.3 to read as follows:

“106.6.3 *Fee refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”
8. 108.4 *Violation penalties*. Delete Section 108.4 in its entirety and insert in lieu thereof a new Section 108.4 to read as follows:

“108.4 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).

9. 108.5 *Stop work orders*: Delete the language following the word “shall” in line thirteen and substitute in lieu thereof, the words “be liable for the penalties as set forth in Section 108.4.”
10. 109 *Means of appeal*. Delete Section 109 in its entirety and insert in lieu thereof a new Section 109 and a new Subsection 109.1 to read as follows:

“109 *Means of appeal*. ”

“109.1 *Application for appeal*: An appeal may be made from a decision of the Code Official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d).”

11. 301.3.1 *Illegal connections*. Add a new subsection 301.3.1, *Illegal connections*, to read as follows:

“301.3.1 *Illegal connections*: No sanitary sewer installations shall permit the conveyance of stormwater. This prohibition shall include, but not be limited to, the conveyance of stormwater to the sanitary sewers from: sump pumps, roof drains, paved areas, subsurface drains and french drains.”

12. 301.3.2 *Nondomestic wastewater discharges*. Add a new subsection 301.3.2, *Nondomestic wastewater discharges*, to read as follows:

“301.3.2 *Nondomestic wastewater discharges*: No sanitary sewer installations shall permit the conveyance of nondomestic wastewater except as permitted by Chapter 25, Article IV, Sections 25-26 and 25-27 of the Code of the City of Newark.”

13. 301.8 *Public systems available*. Add a new Section 301.8, *Public systems available*, to read as follows:

“301.8 *Public systems available*: A public water main or public sewer system shall be considered available where the property is located within two hundred feet (200’) of the public water main or sewer.”

14. 305.6.1 *Sewer depth*. Delete subsection 305.6.1 in its entirety and insert in lieu thereof a new Section 305.6.1 to read as follows:

“305.6.1 *Sewer depth*: Building sewers shall be a minimum of eighteen inches (18”) below grade, except where practical difficulties exist and exceptions are approved by the code official.”

15. 312.5 *Water supply system test*: Following the sentence ending with: “not less than 50 psi (344 kpa)” insert the following new language: “Where practical difficulties exist and at the request, liability and expense of the contractor, an air test may be used on plastic piping.”

16. 605.3 *Water service pipe*: Amend table 605.3 as follows:

“In line seven delete type M and type WM from approved copper or copper alloy tubing.”

17. 605.4 *Water distribution pipe*: Amend Table 605.4 as follows:

“In line five delete type M and type WM from approved copper or copper alloy tubing.”

18. 708.3.2.1 *Property line cleanouts*. Add a new subsection 708.3.2.1 to read as follows:

“708.3.2.1 *Property line cleanouts*: A cleanout shall be installed on the building sewer at the property line on each new sewer installation and on all sewer line replacements and shall be approved by the code official.”

19. 715.1.1 *Sewer repairs and replacements*. Add a new subsection 715.1.1, *Sewer repairs and replacements*, to read as follows:

“715.1.1 *Sewer repairs and replacements*: Where the building sewer is repaired or replaced for existing structures and where fixtures are installed in such structure so that the flood level rim is located below the elevation of the manhole cover of the next upstream manhole in the public sewer and it is not feasible or reasonable to provide a separate branch drain for such fixtures, fixtures having flood level rims above the elevation of the next upstream manhole in the public sewer shall be permitted to discharge through a backwater valve.”

20. 1003.3.1 *Grease interceptors and automatic grease removal devices required*: Insert after the word “drained” in line ten the following new language: “floor drains and floor sinks in food preparation areas;”

21. 1003.3.4.1 *Capacity of grease interceptors*: Delete table 1003.3.4.1 and insert the following new table:

Total flow-through rating (gpm)	Grease Retention Capacity (pounds) (minimum)
4	16
6	24
7	28
9	36
10	40
12	48
14	56
15	60
18	72
20	80
25	100
50	200
75	300
100	400
For total flow through ratings greater than 100(gpm) multiply the flow through ratings by four to determine the required minimum Grease Retention Capacity	

22. 1003.3.6 *Maintenance schedule*. Add a new subsection 1003.3.6, *Maintenance schedule*, to read as follows:

“1003.3.6 *Maintenance schedule*: An approved interceptor monitoring system shall be provided or a maintenance program shall be established with documentation kept the premises.”

Sec. 7-11. Adoption of the 2009 International Mechanical Code.

There is hereby adopted by the City of Newark for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings, structures and premises, that certain code known as the International Mechanical Code, of which not less than three copies have been and are now on file in the office of the code enforcement division, being in particular of the 2009 edition with supplements thereof, and all the nationally recognized standards referred to and incorporated into that code, together with any and all supplements thereto except such articles and sections as are hereinafter deleted, modified or amended.

Sec. 7-12. Amendments made to the 2009 International Mechanical Code.

The 2009 International Mechanical Code is hereby amended and changed in the following respects:

1. 101.1 *Title*: Insert “the City of Newark, Delaware” in the blank on the second line.
2. 103.1 *General*. Delete Section 103.1 in its entirety and insert in lieu thereof a new Section 103.1 to read as follows:

“103.1 *General*: The department charged with enforcement of this chapter shall be the planning and development department, code enforcement division, and the executive official in charge of said division shall be known hereafter as the code official.”

3. 106.3.3 *Time limitation on application*: Delete the number “180” in lines three and seven and insert the number “90” in both lines.
4. 106.4.3 *Expiration*: Delete the number “180” in lines four and seven and insert the number “90” in both lines. Delete the language that follows the word “obtained” in line eight and insert a “period.”

5. 106.5.2 *Fee schedule*. Delete Section 106.5.2 in its entirety and insert in lieu thereof a new Section 106.5.2 to read as follows:

“106.5.2 *Fee schedule*: The fees shall be calculated in accordance with the current permit fee schedule as adopted in Chapter 7, Article I, Section 7-1 (b).”

6. 106.5.3 *Fee refunds*. Delete Section 106.5.3 in its entirety and insert in lieu thereof a new Section 106.5.3 to read as follows:

“106.5.3 *Fee refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”

7. 108.4 *Violation penalties*. Delete Section 108.4 in its entirety and insert in lieu thereof a new Section 108.4, *Violation penalties* to read as follows:

“108.4 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).”

8. 108.5 *Stop work orders*: Delete the language following the word “shall” in line thirteen and insert in lieu thereof, the words “be liable for the penalties as set forth in Section 108.4.”
9. 109 *Means of appeal*. Delete Section 109 in its entirety and insert in lieu thereof a new Section 109 and a new subsection 109.1 to read as follows:

“109 *Means of appeal*.”

“109.1 *Application for appeal*: An appeal may be made from a decision of the code official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d).”

Sec. 7-13. Adoption of the 2009 International Fuel Gas Code.

There is hereby adopted by the City of Newark for the purpose of establishing rules and regulations which establish the minimum regulations governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other facilities and other physical things and conditions essential to insure that structures are safe, sanitary, and fit for occupation, and use, and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; known as the International Fuel Gas Code, of which not less than three copies have been and are now on file in the office of the code enforcement division, being in particular, the 2009 International Fuel Gas Code and all the nationally recognized standards referred to and incorporated into that code, together with any and all supplements thereto, except such articles and sections as are hereinafter deleted, modified, or amended.

Sec. 7-14. Amendments made to the 2009 International Fuel Gas Code.

The 2009 International Fuel Gas Code is hereby amended and changed in the following respects:

1. 101.1 *Title*: Insert “the City of Newark, Delaware” in the blank on the second line.
2. 103.1 *General*. Delete Section 103.1 in its entirety and insert in lieu thereof a Section 103.1, *General*, to read as follows:

“103.1 *General*: The department charged with enforcement of this chapter shall be the code enforcement division, and the executive official in charge of said division shall be known hereafter as the code official.”

3. 106.3.2 *Time limitation on application*: Delete the number “180” in lines three and seven and insert the number “90” in both lines.
4. 106.5.3 *Expiration*: Delete the number “180” in lines four and seven and insert the number “90” in both lines. Delete the language following the word “obtained” in line nine and insert a “period.”
5. 106.6.2 *Fees schedule*. Delete Section 106.6.2 in its entirety and insert in lieu thereof a new Section 106.6.2, *Fees schedule*, to read as follows:

“106.6.2 *Fees schedule*: The fees shall be calculated in accordance with the current permit fee schedule as adopted in Chapter 7, Article I, Section 7-1 (b).”

6. 106.6.3 *Refunds*. Delete Section 106.6.3 in its entirety and insert in lieu thereof a new Section 106.6.3, *Refunds*, to read as follows:

“106.6.3 *Refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”

7. 108.4 *Violation penalties*. Delete Section 108.4 in its entirety and insert in lieu thereof a new Section 108.4, *Violation penalties*, to read as follows:

“108.4 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).”

8. 108.5 *Stop work orders*: Delete the language following the word “shall” in line thirteen and substitute in lieu thereof, the words “be liable for the penalties as set forth in Section 108.4.”

9. 109 *Means of appeal*. Delete Section 109 in its entirety and insert in lieu thereof a new Section 109 and a new subsection 109.1 to read as follows:

“109 *Means of appeal*.”

“109.1 *Application for appeal*: An appeal may be made from a decision of the code official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d).”

Sec. 7-15. Adoption of the 2009 International Residential Code for One- and Two-Family Dwellings, with Supplements.

There is hereby adopted by the City of Newark, for the purpose of regulating construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures that certain code know as the International Residential Code for One- and Two- Family Dwellings, of which not less than three copies have been and are now on file in the office of the code enforcement division, being in particular the 2009 edition thereof, and all the nationally recognized standards referred to and incorporated in that code, together with any and all supplements thereto.

Sec. 7-16. Amendments made to 2009 International Residential Code for One- and Two- Family Dwellings.

The 2009 International Residential Code for one- and two-family dwellings is hereby amended and changed in the following respects:

1. R101.1 *Title*; Insert the words “the City of Newark, Delaware” within parenthesis of this section.
2. R102.5 *Appendices*: The following appendices are hereby adopted as part of this code: F-radon control methods, G- swimming pools, spas, and hot tubs, J- existing buildings and structures, K- sound transmission, M-home day care – R3 occupancy.

3. R105.2 *Work exempt from permit*. Delete Section R105.2 in its entirety and insert in lieu thereof a new Section R105.2 to read as follows:

“R105.2 *Work exempt from permit*: Permits shall not be required for the following. Exemption 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:

Building:

1. Detached accessory structures used as playhouses and similar uses provided the floor area does not exceed 200 square feet (18.58 m²).
 2. Delete item 2 in its entirety.
 3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
 4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
 5. Sidewalks and patios.
 6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 7. Prefabricated pools that are less than 24 inches (610 mm) deep.
 8. Swings and other playground equipment.
 9. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
 10. Delete item 10 in its entirety.
 11. Replacement of windows and doors in detached one- and two-family dwellings provided there is no change to the opening.
4. R105.3.2 *Time limitations of application*: Delete the number “180” in lines three and seven, and insert in lieu thereof the number “90” in both lines.
 5. R105.5 *Expiration*: Delete the number “180” in lines three, five, and seven, and insert in lieu thereof the number “90” in all three lines.
 6. 106.3.1 *Approval of construction documents*. Delete Section 106.3.1 in its entirety and insert in lieu thereof a new Section 106.3.1 to read as follows:

“106.3.1 *Approval of construction documents*: When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as “Approved.” One set of construction documents so reviewed shall be retained by the building official. The other set shall

be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

7. R106.6 *New home warranties*. Add a new Section R106.6, *New home warranties*, to read as follows:

“R106.6 *New home warranties*:

- a) Any application for a building permit for a new single-family dwelling (SFD) after the effective date of this section shall be issued only a registered new home builder who belongs to an approved new home warranty program. Such warranty shall include standards for construction, structural elements, and components of a new home. No certificate of occupancy shall be issued for a new SFD unless accompanied by proof satisfactory to the department of participation in an approved new home warranty program.
- b) The code enforcement division, in reviewing a new home warranty program, shall not approve any program which does not contain the following minimum protection for new homeowners:
 - 1) One year from and after the date of issuance of the certificate of occupancy or title transfer, whichever is later, the dwelling shall be free from all defects caused by faulty workmanship and defective materials due to noncompliance with the applicable city of Newark building codes.
 - 2) Two years from and after the issuance of the certificate of occupancy, the dwelling shall be free from defects caused by faulty installation of plumbing, electrical, heating, and cooling delivery systems; however, in the case of appliances, no warranty shall exceed the length and scope of warranty offered by the manufacturer.
 - 3) Ten years from and after the issuance of the certificate of occupancy, the structure shall be free from actual damage due to the subsidence, expansion, or lateral movement of the soil (excluding movement caused by flood or earthquake) which affects its load-bearing function.”

8. R106.6.1 *Liability of new home builders*. Add a new Section R106.6.1 *Liability of new home builders*, to read as follows:

“R106.6.1 *Liability of new home builders*: A new home builder shall be liable to any new homeowner during the period when the new home warranty, prescribed pursuant to this section, is applicable to the home for any defect therein which is covered by the warranty in accordance with its terms and conditions. The liability of a building under the new home warranty shall be limited to the purchase prices of the home in the first good faith sale.”

9. R106.6.2 *Builder registration; exemption*. Add a new Section R106.6.2 *Builder registration; exemption*, to read as follows:

“R106.6.2 *Builder registration; exemption*: A one-time exemption from registration requirements for an owner-occupant who acts as his own general contractor shall be permitted. The owner must sign an affidavit confirming intent to occupy the new home.”

10. R106.6.4 *Inspections*. Add a new Section R106.6.4 *Inspections*, to read as follows:

“R106.6.4 *Inspections* shall be provided by the code enforcement division prior to the issuance of the certificate of occupancy for any structure built under a new home warranty program. Such inspections shall be made to insure that the house is completed and ready for occupancy. The building official shall retain authority to make spot inspections on any structure.”

11. R108.2 *Schedule of permit fees*. Delete Section R108.2 in its entirety and insert in lieu thereof a new Section R108.2, *Schedule of permit fees*, to read as follows:

“R108.2 *Schedule of permit fees*: Permit fees shall be imposed in accordance with Chapter 7, Article I, Section 7-1(b).”

12. R108.5 *Refunds*: Delete Section R108.5 in its entirety and insert in lieu thereof a new Section R108.5 to read as follows:

“R108.5 *Refunds*: There shall be no refund of any permit fees and/or any associated fees once paid.”

13. R108.6 *Work commencing before permit issuance*. Delete Section R108.6 in its entirety and insert in lieu thereof a new Section R108.6 to read as follows:

“R108.6 *Work commencing before permit issuance*: Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permits shall be subject to 100 percent of the usual permit fee in addition to the required *permit fees*.”

14. R112 *Board of appeals*. Delete Section R112 in its entirety and insert in lieu thereof a new Section R112 and a new subsection R112.1 to read as follows:

“R112 *Board of appeals*.”

“R112.1 *Application for appeal*: An appeal may be made from a decision of the Code Official by making an appeal to the Board of Building Appeals, pursuant to Chapter 7, Article 1, Section 7-1 (d).”

15. R113.4 *Violation penalties*. Delete Section R113.4 in its entirety and insert in lieu thereof a new Section R113.4, *Violation penalties*, to read as follows:

“R113.4 *Violation penalties*: Penalties for violations shall be imposed in accordance with Chapter 7, Article I, Section 7-1 (g).”

16. R202 *Definitions*: Add the following new definitions:

“*Automatic fire sprinkler system*: A sprinkler system, for fire protection purposes, is an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water over the fire area.”

“*Building official*: The planning and development department director or his designee of the City of Newark and/or any of the authorized officers or inspectors of the code enforcement division.”

“*Fire protection system*: Approved devices, equipment, and systems or combinations of systems used to detect a fire, activate an alarm, extinguish, or control a fire, control or manage smoke and products of fire, or any combination thereof.”

17. Table R301.2(1) Climatic and Geographic Design Criteria is filled in as follows:

**TABLE R301.2 (1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

GROUND SNOW LOAD	WIND DESIGN		SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM			WATER DESIGN TEMP ^h	ICE BARRIER UNDERLAYMENT REQUIRED ^l	FLOOD HAZARDS ^o	AIR FREEZING INDEX ⁱ	MEAN ANNUAL TEMP
	Speed ^d (mph)	Topographic Effects ^a		Weathering ^a	Frost line depth ^b	Termite ^e					
20	90	NO	B	SEVERE	32"	Moderate Heavy	14	NO	1972 1-17-07	538	54

18. R302.1 *Exterior walls*. Delete Section R302.1 in its entirety and insert in lieu thereof a new Section R302.1 to read as follows:

“R302.1 *Exterior walls*: Construction, projections, opening and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1.”

Exceptions:

1. Walls, projections, openings, or penetrations in walls perpendicular to the line used to determine the fire separation distance.
2. Walls of dwellings and accessory structures located on the same lot.
3. Detached tool sheds and storage sheds shall be a minimum of 3 feet (915mm) from a lot line. Detached tool sheds and storage sheds closer than 3 feet (915 mm) to any other structure on the same lot shall be protected with not less than ½ inch gypsum board applied to the interior side of exterior walls that are within this area. No openings shall be permitted in these walls. This provision does not apply to walls that are perpendicular to the adjacent structure.
4. Detached garages accessory to a dwelling located within 3 feet (915mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102mm).
5. Foundation vents installed in compliance with this code are permitted.

19. R311.9 *Egress to public way*. Add a new subsection R311.9.1, *Service walks* and R311.9.2 *Driveways* to read as follows:

“R311.9.1. *Service walks*: All new one and two family dwellings regulated by this code shall provide an approved service walk from the primary entrance/exit to a driveway or public

sidewalk. This required service walk must comply with minimum specifications as set forth by the City of Newark.

R311.9.2. *Driveways*: All new one- and two- family dwellings regulated by this code shall provide an approved driveway from the public way to the dwelling unit, garage, or carport of an appropriate length as required by the zoning regulations. Width, thickness, and construction must comply with minimum specifications as set forth by the City of Newark.”

20. R313.1 *Townhouse automatic fire sprinkler system*: Delete Sections R313.1 in its entirety and insert in lieu therefore the following new language to read as follows:

“R313.1 *Townhouse automatic fire sprinkler system*: An approved automatic fire sprinkler system shall be installed in:

1. All new one- and two-family dwellings except those within approved subdivisions where building, site, construction improvements plan, authorized construction, or utility permits have been issued and with construction commenced on the subdivision prior to January 5, 2002. Construction, as that term is employed in this subsection, shall mean a valid building, site, construction improvements plan authorization to proceed, or utility permit has been issued and work called for in the permit or authorization has begun on the subdivision. For subdivision approved for construction in sections or phases, the exception herein shall apply only if building, site, construction improvement plan authorized construction, or utility permits for that section or phase has been issued and construction commenced on the subdivision therein prior to January 5, 2002.
2. All prefabricated non-accessory use structures moved into or within the city from one tax parcel to a different tax parcel. Accessory building or structures, as that term is employed in this subsection, shall refer solely to detached or subordinate buildings, the use of which is incidental and subordinate to that of the main building on the same lot.
3. Any existing structure which undergoes renovations at any one time to 50% or more of its interior area measured in square footage. Multiple renovations, which when accumulated are made to more than 50% of the original structure, made to any one structure during a three year period from the date of the original permit approval, shall comply with this regulation.

21. R313.2 *One- and two- family dwellings automatic fire systems*. Delete Section R313.2 in its entirety and insert in lieu thereof a new Section R313.2 to read as follows:

“R313.2 *One- and two- family dwellings automatic fire sprinkler systems*: One- and two-family dwellings automatic fire sprinkler systems shall comply with Chapter 14, of the Code of the City of Newark.”

22. R314.3 *Location*: Add a new Item 4 to read as follows:

“4. When basements or portions of basements are finished into habitable space a smoke detector shall be installed in both the finished and unfinished areas of the basement.”

23. R403.1 *General*: Add the following new language to read as follows:

Exception:

“For detached tool sheds and storage sheds 200 sq. ft. (18.58m²) or less footings are not required.”

24. R403.1.4.1 *Frost protection*: Delete the Exceptions to R403.1.4.1 in their entirety and insert in lieu thereof new exceptions to read as follows:

Exceptions:

1. Protection of freestanding accessory structures with an area of 200 square feet (18.58 m²) or less, of light-frame construction, with an eave height of 10 feet (3048 mm) or less shall not be required. Structure shall be anchored on all 4 corners of the building with minimum 18 inch (457.2mm) screw anchors.
2. Protection of freestanding accessory structures with an area of 200 square feet (18.58m²) or less, of other than light-frame construction, with an eave height of 10 feet (3048 mm) or less shall not be required. Structure shall be anchored on all 4 corners of the building with minimum 18 inch (457.2mm) screw anchors.
3. Decks not supported by a dwelling need not be provided with footings that extend below the frost line.

Footings shall not bear on frozen soil unless the frozen condition is permanent.

25. R403.1.6. *Foundation anchorage*: Add a new Exception 4 to read as follows:

Exceptions:

“4. Detached accessory structures that do not exceed 200 sq. ft. (18.58m²) shall be provided with minimum 18 inch (457.2mm) screw type anchors (or approved equal). One anchor shall be installed at each corner.”

26. R406.1 *Concrete and masonry foundation dampproofing*: Delete Section R406.1 in its entirety.

27. R406.2 *Concrete and masonry foundation waterproofing*: Delete Section R406.2 in its entirety and insert in lieu thereof a new Section R406.2 to read as follows:

“R406.2 *Concrete and masonry foundation waterproofing*: All exterior foundation walls that retain earth and enclose interior spaces and floors below grade shall be waterproofed from the top of the footing to the finished grade. Walls shall be waterproofed in accordance with one of the following:

1. Two-ply hot-mopped felts.
2. Fifty five pound (25kg) roll roofing.
3. Six-mil (0.15mm) polyvinyl chloride.
4. Six-mil (0.15mm) polyethylene.
5. Forty-mil (1.5mm) polymer-modified asphalt.
6. Sixty-mil (1.5mm) flexible polymer cement.
7. One-eighth inch (3mm) cement- based, fiber-reinforced, waterproof coating.

8. Sixty-mil (0.22mm) solvent-free liquid-applied synthetic rubber.
9. Foundation walls may be waterproofed using other methods when approved by the building official.

Exception:

Organic-solvent based products such as hydrocarbons, chlorinated hydrocarbons, ketones and esters shall not be used for ICF walls with expanded polystyrene form material. Use of plastic roofing cements, acrylic coatings, latex coatings, mortars and pargings to seal ICF walls is permitted. Cold-setting asphalt or hot asphalt shall conform to type C of ASTM D 449. Hot asphalt shall be applied at a temperature of less than 200°F (93°C).

All joints in membrane waterproofing shall be lapped and sealed with an adhesive compatible with the membrane.”

28. R903.4 *Roofs drainage*. Delete Section R903.4 in its entirety and insert in lieu thereof a new Section R903.4 to read as follows:

“R903.4 *Roofs drainage*: All roofs that are sloped to drain over roof edges shall have roof drains installed at each low point of the roof. Where required for roof drainage, scuppers shall be placed level within the roof surface in a wall or parapet. The scupper shall be located as determined by the roof slope and contributing roof area.”

Exception: Accessory structures with a floor area of 200 square feet (18.58 m²) or less.

29. P2603.6.1 *Sewer depth*: Delete [Number] and Add [18 inches (457.2mm)] in both locations in the paragraph.
30. P2904 *Dwelling unit fire sprinkler systems*: Delete Section P2904 in its entirety and insert in lieu thereof a new Section P2904 to read as follows:

“P2904 *Dwelling unit fire sprinkler systems*: Dwelling unit fire sprinkler systems shall comply with Chapter 14, Code of the City of Newark”

Sec. 7-17 Reserved.

Sec. 7-18 Reserved.

Sec. 7-19. Historic Buildings.

The 2009 International Building Code, and subsequent codes as issued by the ICC, is amended concerning special historic buildings and districts by adding the following to such regulations:

- (a) *Purpose and intent*. The purpose of this section is to provide for the designation of historic buildings, sites, and structures, to establish regulations concerning the maintenance of, alteration of, and demolition impact upon such structures; and to

establish procedures and requirements for the city's review of such alteration, demolition and maintenance with the intent, among other things, to:

1. Safeguard and prevent further loss of the city's architectural heritage;
2. Stabilize and protect the value of property;
3. Foster civic pride; and
4. Promote the use and preservation of historic buildings and sites for the benefit, education, welfare, and enjoyment of our city's residents, property owners, and visitors.

(b) *Definitions.* For this section's purposes, the following words and phrases shall be interpreted or defined as follows:

1. *Alter* shall mean an act or process that changes the exterior architectural facade in such a way as to substantially reduce the historic significance of the structure as established in subsection (c)(2)(e).
2. *Certificate of economic hardship* shall mean a certificate appended to a building or demolition permit issued by the city council approving and authorizing demolition of an historic building or site.
3. *Demolition* shall mean the act or process that results in the removal of a building or structure from its site or the removal or destruction in entirety or of a significant part of the exterior architectural facade of such buildings. "A significant part" shall mean a substantial change in design and appearance that materially alters the exterior architectural facade of the structure. In arriving at a determination as to whether a particular demolition has involved or will involve a "significant part," the building official may, with the assistance of the planning department, perform a calculation to determine what percentage of the whole exterior 50%; such official may determine that such demolition has per se impacted upon a significant part of the facade.
4. *Demolition by neglect* shall mean improper maintenance, or the lack of maintenance, which results in substantial and widespread deterioration of a building, structure, or site and which threatens the likelihood of its preservation or which threatens public safety, health, and welfare of the immediate community.
5. *Exterior architectural facade* shall mean the architectural style, design, and general composition of the exterior of a structure that can be seen readily from a street, sidewalk, or way opened to the public.
6. *Historic building or site* shall mean the buildings and/or sites in Newark listed in this section; and additional buildings and/or sites that may be designed historic and added to this section under the procedures established in subsection (c)(2).
7. *Ordinary maintenance and repair* shall mean the work done on a building or site to prevent or minimize any deterioration, decay, or damage to a building, or any

of its parts, or in order to restore a building or site prior to its deterioration, decay, or damage.

8. *Preservation* shall mean the act or process of applying measures to sustain the existing form, integrity, and material of the building or structure and the existing form and vegetative cover or a site. It may include initial stabilization work, where necessary, as part of ordinary maintenance and repair.
9. *Rehabilitation* shall mean the act or process of returning a property to a state of utility through a repair or alteration which makes possible an efficient use of the building, while preserving those portions or features of the property which are central to its historic, architectural, and cultural significance.
10. *Restoration* shall mean the act or process of accurately recovering the form and details of a property and its settings as it appeared at a particular period of time in the past by means of the removal of later work or by the replacement of missing earlier work.

(c) *Historic buildings and sites.*

1. Historic buildings and sites that come under this section's requirements are as follows:
 - (a) Newark School District building, 83 East Main Street.
 - (b) Memorial Hall, South College Avenue.
 - (c) St. Thomas Episcopal Church, 21 Elkton Road.
 - (d) Old First Presbyterian Church, West Main Street.
 - (e) St. John the Baptist Roman Catholic Church, 200 East Main Street.
 - (f) Blue Hen Farm, 505 Stamford Drive.
 - (g) Anderson House, 58 West Park Place.
 - (h) Bell Farm House, 401 Nottingham Road.
 - (i) Edward R. Wilson House, 521 South College Avenue.
 - (j) Belmont Hall, 203 West Main Street.
 - (k) Andrew Kerr House, 812 Elkton Road.
 - (l) Meteer Storehouse, 325 Paper Mill Road.
 - (m) Curtis Paper Mill Worker's Houses, Curtis Lane.
 - (n) Curtis Mansion. 189 West Main Street.
 - (o) Wright House. 47 Kent Way.
 - (p) John Evans House, West Main Street and North College Avenue.
 - (q) George Evans House, 4 West Main Street.
 - (r) Baily House, 166 West Main Street.
 - (s) 140 West Main Street.
 - (t) Bank of Newark Building, 102 East Main Street.
 - (u) Deer Park Hotel, 108 West Main Street.
 - (v) Exchange Building, 154-58 East Main Street.
 - (w) Newark Opera House, 95 East Main Street.
 - (x) Green mansion, 94-96 East Main Street.
 - (y) Rhodes Pharmacy, 36 East Main Street – "Treats".
 - (z) Wilmington Trust Company, 82 East Main Street.
 - (aa) 34 Choate Street.

- (bb) 28-34 and ½ Academy Street.
 - (cc) Newark Passenger Railroad Station, South College Avenue.
 - (dd) Chambers House, 196 South College Avenue.
 - (ee) Aetna Hose Hook and Ladder Company, Fire Station #1, 26 Academy Street.
 - (ff) Aetna Hose Hook and Ladder Company, Fire Station #2, 31 Academy Street.
 - (gg) Delaware College Historic District, Northeast corner of East Main Street and North College including Old College, Recitation Hall and Annex, Mechanical Hall, Elliott Hall, Alumni Hall (Purnell Hall).
 - (hh) Newark Academy Building and Academy Square, Main Street.
 - (ii) Andrew Fisher House, 725 Art Lane.
 - (jj) Phillips Mill property, Nottingham Road.
2. Other buildings and sites may, from time to time, be added or deleted from subsection (c)(1) above by city council, following recommendations from the planning commission as specified below:
- a. The property owner, a member of city council or of the planning commission, or the planning and development director or his designee may nominate a building and/or property for listing as a historic building or site, or request that a building or site be removed from the listing.
 - b. The planning commission, upon receipt of a report from the planning and development director or his designee concerning of the status of the building and/or property, shall conduct a public hearing, pursuant to the requirements of this code, and make a recommendation to city council concerning the nomination or request for removal from the listing of a particular building or site. If particular building or site. If applicable, the owner of the property shall be notified at least 15 days prior to the planning commission's public hearing. Depending upon the nature of the application, the planning director or his designee may require that applications for listing or removal from listing include information evaluating the request in terms of the criteria in subsections (c) (2) e or f of this section.
 - c. City council, upon receipt of a recommendation from the planning commission, shall consider the request for listing or the request for removal from the listing at a public hearing pursuant to the requirements of this code. The request for listing, or the request for the removal of the listing, shall be submitted to city council in the form of an ordinance.
 - d. If city council denies a request for listing or a request for removal from the listing, such a request shall not be eligible for reconsideration for two years after determination by city council, except upon a motion of three-fourths of the council.
 - e. Criteria for evaluation for listing as a historic property is as follows:
 - 1. The planning commission's consideration, and council's approval, of a nomination for listing as a historic building or site shall be

based on the National Register of Historic Place's, "Criteria for Evaluation" which reads:

"This quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects that posses integrity of location, design, setting materials, workmanship, felling and association, and:

- i) That are associated with an event that has made a significant contribution to the broad patterns of our history; or,
- ii) That are associated with the lives of persons significant in our past;
- iii) Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, whether they represent a significant and distinguishable entity whose components whose components may lack individual distinction; or,
- iv) That has yielded or may be likely to yield, information important to prehistory.

Ordinarily, cemeteries, birthplaces, or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved significance from the past 50 years shall not be considered eligible."

- 2. The planning commission and city council may also consider in reviewing the above criteria, if a building or property is of particular local historic, cultural, and architectural significance, and is one of the few remaining Newark examples of a past architectural style or a structural representative of its era, whose demolition or deterioration would constitute an irreplaceable loss to the quality and character of the Newark community.
- f. Criteria for evaluation for removal from the listing of historic properties. The planning commission's consideration and city council's removal of historic building and/or site designation shall be based on the property no longer meeting the criteria for evaluation for listing as historic property in subsection (e) of this section, resulting from the alteration or damage to the structure to such an extent that the special and distinguishing architectural character that had lead to its original listing has been greatly diminished or destroyed.

(d) *Scope.*

1. *Reviewable activities.* Except as otherwise specified in this section, all demolition permits and building permits calling for the destruction of the entirety or a significant part of an exterior architectural facade for historic buildings shall require a certificate of economic hardship viewed by the planning commission and approved by city council under procedures for review of such certificates established in this section.
2. *Non reviewable activities.* The following activities shall not require a certificate of economic hardship:
 - (a) Ordinary maintenance or repair that does not require a building permit; such maintenance and repair requiring a building permit also shall not be reviewable if it does not involve a substantial change in design or appearance that materially alters the exterior architectural facade of the structure.
 - (b) Sign installation or repair.
 - (c) Installation of seasonal fixtures and elements including, but not limited to, air conditioning and holiday decorations.
 - (d) The application of paint or stain.
 - (e) Interior design, redesign, or rearrangement: including window displays, and related construction or reconstruction having no impact on exterior architectural facades as defined in this section.
 - (f) Installation of swimming pools.
 - (g) Other activities not requiring a building permit or demolition permit, including the installation or repair of storm windows and doors, gutters or downspouts, and similar items.

(e) *Procedures for review of certificates of economic hardship.*

1. Applications for demolition or building permits requiring certificate of economic hardship shall be forwarded by the code enforcement division to the planning and development department.
2. Applicants for certificates of economic hardship may wish to submit, based on the advice of the planning and development director, 15 copies of all or some of the following:
 - a. A cover letter, statement, or report request the certificate, including the applicant's evaluation of the criteria to be reviewed by the planning commission as stipulated in this section.
 - b. An affidavit of ownership which shows the book and page number for each conveyance to the present owner as recorded in the New Castle County Recorder of Deeds offices.
 - c. For building permits impacting exterior architectural facades, as specified in this section, plans and specifications showing the impact of the proposed work on the exterior architectural appearance of the building.

- d. Current color photographs of the property showing the present condition, accurately representing the existing materials and textures. All photographs shall be labeled to indicate direction of view.
 - e. Site plans showing the existing building and, if applicable, the proposed addition, and adjacent and nearby properties.
 - f. Color elevations, drawn to scale, of all sides of the building visible from streets, sidewalks, or way used by the public, including from the municipal parking lots. Such elevations shall include complete existing and proposed exterior architectural details, exterior equipment, and all appurtenances located on roofs, walls, and the ground. All existing and purposed finishes of materials shall be identified and noted on the elevation.
 - g. Other information that may be considered appropriate by the planning and development director of planning commission.
3. Applicants for certificates of economic hardship may wish to submit the information in subsection (e)(2) above and may also wish to submit, based on the advice of the planning and development director or his designee, to submit the following:
- a. Information from an architect, developer, or real estate professional with experience in preservation or rehabilitation of historic properties evaluating attempts to preserve or rehabilitate the property based on the criteria in this section for a certificate of economic hardship; or an economic evaluation of a proposed attempt, showing that the existing or changed use in a preserved, rehabilitated, or restored structure is incapable of earning a reasonable return.
 - b. A report, sealed by a Delaware licensed structural engineer concerning the soundness and condition of any buildings on the property and their suitability for preservation, reconstruction, rehabilitation, or restored structure is incapable of earning a reasonable return.
 - c. The amount paid for the property by the applicant and the date of purchase.
 - d. If the property is income producing, the annual gross income from the property for two years prior to application, itemized operation and maintenance expenses for those years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period for those years.
 - e. Remaining balance in any mortgage or financing secured by the property and annual debt service, if any, for the previous two years.

- f. All appraisals obtained within the previous two years prior to application, by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 - g. Any listing of the property for sale or rent, price asked, and offers received, if any within the previous two years of application.
 - h. Form of ownership or operation of the property, whether sole proprietorship, for-profit, or not-for-profit corporation, limited partnership, joint venture, or other entity.
 - i. Any other information, including Federal income tax returns for the two years immediately preceding the application of the owner, applicant, or principal investors in the property that may help to determine whether the property may yield a reasonable return.
4. The planning and development department shall distribute the submitted plans and information to the city manager, code official, and other applicable departments. The departments shall provide written comments to the planning and development department concerning the request for a certificate of economic hardship on a schedule set by the planning and development department.
 5. The planning and development department shall prepare a written report containing recommendations concerning the application for a certificate of economic hardship. The planning and development department may consult with the State of Delaware, Division of Historical and Cultural Affairs, concerning the application, and may refer to the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
 6. The planning commission shall hold a public hearing to review the application for a certificate of economic hardship. Prior to taking action on the application for a certificate of economic hardship, the members of the commission present shall affirm that they have inspected the exterior of the building or site. The commission shall recommend to the city council the approval, approval with conditions, or disapproval of the application.
 7. Upon receipt of the planning commission recommendation and planning and development department report, city council shall consider the application for the certificate of economic hardship at a public hearing. Council shall thereafter approve, approve with conditions, or disapprove the application.
- (j) *Enforcement.* Enforcement of this section shall be the responsibility of the building official.

(k) *Penalties and remedies.* The following penalties and remedies shall be applicable to violations of this section:

- 1) Failure to perform any action required by this section or performance of any section action which is prohibited by this section shall constitute a violation. Every day in which a violation exists shall constitute a separate violation and a separate offense. Any person violating any of the provisions of this section shall be subject to a fine of not less than \$100.00, nor more than \$1,000.00, for each offense. In addition, if the owner of any building, structure, or site listed in subsection (c)(1) willfully alters or demolishes all or a significant part of such structure without obtaining a certificate of hardship as required in this section, then no permit to construct a new structure or portion of a structure shall be issued for the property upon which the building, structure, or site stood for a period of three years from the date of demolition or alteration.
- 2) Notwithstanding the provisions of subsection (k)(1) of this section, in the event any building, structure, or site is altered or demolished, or is to be altered or demolished, in violation of this section, the city may institute appropriate proceedings in any court of competent jurisdiction to prevent or remedy such unlawful alteration or demolition.

1. *Historic Preservation Technical Advisory Committee.* A committee shall be established to advise and assist in the evaluation of properties for inclusion in the list of historic buildings and sites, in the review of building permit fee waivers, in the review of requests for certificate of economic hardship, and in the review of tax credits for the preservation, restoration, and/or rehabilitation of historic properties as established in this code.

The committee shall consist of one representative each from the following: the University of Delaware's Center for Historic Architecture and Engineering, a licensed professional architect member of the New Castle County Historic Review Board, and a registered design professional member of the City of Newark Board of Building Appeals. The committee shall be convened by the code enforcement division director when necessary to advise and assist as described in this subsection. "

MOTION for Acceptance as First Reading on _____, 2010,

by Council Member _____.

Second Reading and Final Passage on _____, 2010.

VOTE: _____ to _____.

Mayor

Attest:

City Secretary

Approved as to Legality & Form:

City Solicitor