



SPONSOR: Rep. Bennett & Sen. Paradee
Reps. Brady, Briggs King, Lynn, Viola, Yearick; Sens.
Ennis, Hansen

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 87
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2
AND
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 9 PART III OF THE DELAWARE CODE RELATED TO PROPERTY MAINTENANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 9, Part III of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 56. KENT COUNTY PROPERTY MAINTENANCE

§ 5601 Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

- (1) "Administrative tribunal" means a violation hearing before the Code Official for Kent County.
- (2) "Building" means a structure having a roof, and intended to shelter persons, animals, property, or business activity. The word "building" shall be construed to include parts thereof and all equipment therein.
- (3) "Kent County Levy Court" means the Levy Court for Kent County.
- (4) "Department of Planning Services" means the Kent County Department of Planning Services.
- (5) "Person responsible" means the owner and any other person or persons who have control over the property or are responsible for the violation.
- (6) "Property" means a lot, plot, or parcel of land, including any structures thereon.
- (7) "Structure" means a manmade object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

§ 5602 Promulgation of property maintenance code.

The Kent County Levy Court, in order to provide for the health, safety, and welfare of the citizens of Kent County, may promulgate rules and regulations to be known as the Kent County Property Maintenance Code, regulating and governing the condition and maintenance of all property, structures, and buildings to eliminate or prevent unsafe,

unhealthy, unsanitary, or substandard conditions. Said rules and regulations shall provide standards for: the condition and maintenance of property, structures, and buildings; supplied utilities, facilities, and other physical things and conditions essential to ensure that property, structures, and buildings are safe, sanitary, and fit for occupation and use and do not adversely affect the welfare of the public; condemnation of structures and buildings unfit for human occupancy and use; and the demolition of structures and buildings unfit for human occupancy and use.

§ 5603 Department of Planning Services; administration and enforcement.

The Department of Planning Services shall have the power and authority to administer and enforce all provisions of the Kent County Property Maintenance Code as promulgated by the Kent County Levy Court except as otherwise provided for by this chapter or by rule or regulation adopted by Kent County Levy Court.

§ 5604 Removal of weeds, grasses, refuse, rubbish, trash, or other waste material.

No person shall permit weeds or grass to grow, or refuse, rubbish, trash, or other waste material to be placed or to accumulate upon land or improved premises so as to create a nuisance detrimental to adjoining properties or the health or safety of other persons.

§ 5605 Fees.

The Kent County Levy Court may adopt rules and regulations providing for the charge of reasonable fees for the administration and enforcement of the Kent County Property Maintenance Code, including fees for the inspection and re-inspection of properties for which a notice of violation has been duly issued.

§ 5606 Violation of regulations or chapter; notices and orders.

(a) For the purpose of enforcing compliance with the provisions of the Kent County Property Maintenance Code, and removing illegal, unhealthy, or unsafe conditions, the Department of Planning Services shall issue such rules, notices, or orders as may be necessary.

(b) Whenever the Department of Planning Services is satisfied that a person responsible has committed an offense against the Kent Property Maintenance Code or other provision of the Kent County Code that constitutes a threat to the public health, safety, or welfare, or of an order of the Department of Planning Services, the Department of Planning Services may serve a written notice or order upon the person responsible, directing discontinuance of each illegal action and the remedying of the condition that is in violation of the provisions, regulations, or requirements as adopted by the Kent County Levy Court or by order of the Department of Planning Services.

(c) No person, having been served with such a notice or order, shall fail to comply with the requirements thereof within the time stated therein or within 15 days if no time is provided, unless the Department of Planning Services determines that such violation cannot be cured within such time and clearly delineates additional time for compliance.

§ 5607 Abatement; creation of tax lien.

(a) If after due notice, either actual or constructive, is given by the Department of Planning Services to the person responsible for the property, and where such person has had the opportunity to be heard by an administrative tribunal or a court of competent jurisdiction, such person fails to comply with the notice or order, and the illegal action or condition continues to exist, the Department of Planning Services may cause such violation to be removed, corrected, abated, or otherwise made safe and sanitary. The Department of Planning Services may incur any expense of razing, demolishing, removing, or repairing unsafe or illegal buildings and structures, and may incur any expense necessary or incidental to abating violations of the Kent Property Maintenance Code or other provisions of the Kent County Code that constitute a threat to the public health, safety, or welfare or to provide for the sanitary condition, safety, or security of the property, structure or building.

(b) All expenses incurred by the Department of Planning Services pursuant to this section shall be a tax lien on the parcel of real property that the expense is incurred upon or which is the subject of the notice or order. Upon certification of a tax lien by the Department of Planning Services, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes, and paid to Kent County, when collected.

(c) Any unpaid fine or civil penalty associated with violation of the Kent Property Maintenance Code or any other provision of the Kent County Code that provides for the sanitary condition, safety, or security of a property, structure, or building, such fine or civil penalty being final and non-appealable, may be added to local property tax billings for the property, which was the subject of said notice or order and collected in the same manner as other county real estate taxes, and paid to Kent County, when collected.

(d) Kent County may maintain any action at law or in equity for the recovery of expenses incurred by the Department of Planning Services for the collection of charges, fees, fines, and penalties assessed pursuant to this chapter, including, without limitation, proceedings pursuant to a writ of monition.

§ 5608 Penalties.

The person responsible for a building, structure, or premises, where anything is in violation of this chapter or the rules or requirements as promulgated by the Kent County Levy Court, or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Department of Planning Services, or in violation of an order of the Department of Planning Services, shall be fined in accordance with a schedule of fees and penalties to be established by the Kent County Levy Court. The maximum fine per violation shall not exceed the provisions found in § 5917 of Title 11. Each and every day such violation continues shall constitute a separate offense.

§ 5609 Additional remedies.

The imposition of the penalties or enforcement prescribed in this chapter or by the rules or requirements as promulgated by the county Levy Court shall not preclude the Attorney General, county attorney, or code enforcement constable from instituting appropriate actions or proceedings to prevent, enjoin, or abate any continuing violation of this chapter.

§ 5610 Exceptions.

This chapter shall not apply to (1) properties, buildings, or structures located within any incorporated city or town in Kent County unless the responsibility for the local code enforcement has been duly transferred to Kent County.

(2) land deemed to be actively devoted to agricultural, horticultural, or forestry as defined in § 8333 of this title.

(3) any structure that is not subject to regulation pursuant to § 4901(b) of this title.