Legislative Council,
General Assembly
State of Delaware

# Title 9

# Counties

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# Part I
# Provisions Affecting All Counties
## Chapter 1
## Boundaries of Counties and Hundreds

### § 101. Division of State into counties.

The State is divided into 3 counties: New Castle, Kent and Sussex.

(Code 1852, § 5; Code 1915, § 8; Code 1935, § 8; 9 Del. C. 1953, § 101.)

### § 102. New Castle County boundaries.

New Castle County comprises that part of the State which is bounded as follows: On the north, by the State of Pennsylvania; on the east, by low watermark on the eastern side of the Delaware River within the 12-mile circle described from New Castle, the southerly perimeter of the circle from its intersection with the low watermark westerly to the middle line of Delaware River, the middle lines of Delaware River and Bay southerly to a point in the last mentioned line opposite the mouth of Smyrna River; on the south, by a line drawn by the shortest distance from the last mentioned point in the middle line of the Delaware Bay to the mouth of Smyrna River, thence by a line westerly through the thoroughfare north of Bombay Hook Island, and up the Smyrna River to the mouth of a branch issuing from the main branch of the River, at a point opposite, on the Kent side, land formerly of Enoch Jones, and opposite, on the New Castle side, lands formerly of Richard Nash, and running thence westwardly up the branch the several courses thereof 602 perches to a point, where formerly stood a white oak tree, a corner for lands formerly of Benjamin Hazel and lands formerly of Richard Hollet, at the head of the branch; and from thence continued due west 1708 perches till it intersects the tangent or divisional line between the States of Delaware and Maryland, where the same crosses the Cypress Branch; and on the west by the State of Maryland.

(Code 1852, § 6; 19 Del. Laws, c. 835; 20 Del. Laws, c. 147; 20 Del. Laws, c. 629; 20 Del. Laws, c. 650; Code 1915, § 9; Code 1935, § 9; 9 Del. C. 1953, § 102.)

### § 103. Kent County boundaries.

Kent County comprises that part of the State which is bounded as follows: On the north, by the southerly boundary line of New Castle County, as described in § 102 of this title; on the east, by the middle line of Delaware Bay from the point where the same is intersected by the southerly boundary line of New Castle County to a point in the middle line of the Bay nearest to the centre line of Mispillion River at the mouth thereof; on the south, by a line drawn by the shortest distance from the last mentioned point in the middle line of the Bay to the centre line of Mispillion River at the mouth thereof, thence up the Mispillion River the several courses thereof to a fork of the River, the point being marked by a large stone buried in the west side of a Mill Dam at the junction of Tan Trough Branch with Beaver Dam Branch (a small maple marked with 6 chops bears south $76^{3}/_{4}$ degrees west $^{8}/_{10}$ of a perch from the stone, and a sweet gum on the east side of the Mill Dam marked with 6 chops bears south $44^{3}/_{4}$ degrees east 2.23 perches from the stone); and running thence up and with the middle of the run of the Tan Trough Branch the several meanderings thereof, the general trend of which Branch is in a southwesterly direction, about 874.7 perches to a stone monument (No. 1) set at the head of the Tan Trough Branch; thence running south $27^{1}/_{2}$ degrees west a distance of 480 perches to another stone monument (No. 3) set in the corner of the front yard attached to the dwelling owned and occupied by James L. Jump; thence running south 69 degrees and 50 minutes west a distance 299.1 perches to a point in the middle of the bridge over the division line ditch between the Counties of Kent and Sussex (the point is south 69 degrees and 50 minutes west $^{4}/_{10}$ of a perch from a stone monument (No. 4) set on the east bank of the ditch in the north side of the public road); thence running down and with the middle of the run of the division line ditch the several meanderings thereof, the general trend of which ditch is in a southwesterly direction, a distance of about 500.5 perches to a point in the junction of this ditch with the ditch of the main branch of Nanticoke River; this same point bears south 86 degrees and 51 minutes east 2 perches from a stone monument (No. 5) set in the northeast side of the public road and in the next mentioned line; thence running north 86 degrees and 51 minutes west and at a distance of 2 perches passes stone monument (No. 5); thence crossing fields, swamps, striking across the middle of Marshy Hope Bridge in a diagonal direction the whole distance being $2870^{1}/_{4}$ perches to a stone monument (No. 14) set in the dividing line between the States of Maryland and Delaware, this being the terminus of the division line between the Counties of Kent and Sussex; and on the west by the State of Maryland.

(Code 1852, § 7; 19 Del. Laws, c. 835; 20 Del. Laws, c. 147; 20 Del. Laws, c. 629; 20 Del. Laws, c. 650; Code 1915, § 9; Code 1935, § 9; 9 Del. C. 1953, § 103.)

### § 104. Sussex County boundaries.

Sussex County comprises that part of the State which is bounded as follows: On the north, by the southerly boundary line of Kent County as described in § 103 of this title; on the east, by the middle line of Delaware Bay from the point where the same is intersected by southerly boundary line of Kent County to the mouth of the Bay, and by the Atlantic Ocean; on the south and west by the State of Maryland.

(Code 1852, § 7; 19 Del. Laws, c. 835; 20 Del. Laws, c. 147; 20 Del. Laws, c. 629; 20 Del. Laws, c. 650; Code 1915, § 9; Code 1935, § 9; 9 Del. C. 1953, § 104.)

## § 105. Hundreds in New Castle County; boundaries.

(a) New Castle County is divided into 11 hundreds, as follows: Appoquinimink, Blackbird, Brandywine, Christiana, Mill Creek, New Castle, Pencader, Red Lion, St. Georges, White Clay Creek and Wilmington.

(b) Brandywine Hundred comprises that part of New Castle County which is bounded as follows:

Beginning at the point where low watermark on the westerly side of the Delaware River is intersected by the northerly boundary line of the State of Delaware; thence by the boundary line, crossing the Delaware River, to low watermark on the easterly side of the Delaware River; thence by the last mentioned low watermark to the point where the last mentioned low watermark is intersected by the northerly boundary line of the City of Wilmington; thence by the present boundary lines dividing Brandywine Hundred from the City of Wilmington, Christiana Hundred, and the State of Pennsylvania, to the place of beginning.

(c) Wilmington Hundred comprises that part of New Castle County described as follows:

(1) All that part of New Castle County which is included within the corporate limits of the City of Wilmington;

(2) All territory which shall hereafter be added to and included within the City of Wilmington shall become part of Wilmington Hundred;

(3) Whenever by the extension of the limits of the City of Wilmington, territory forming part of any hundred as hereby established, shall be included within the limits of the City, such hundred shall thereafter consist of the residue thereof not so included within the limits.

(d) New Castle Hundred comprises that part of New Castle County which is bounded as follows:

Beginning at the point where low watermark on the westerly side of the Delaware River is intersected by the southerly boundary line of the City of Wilmington; thence by the boundary line, crossing the Delaware River to the low watermark on the easterly side of the Delaware River; thence by the last mentioned low watermark to a point which is due east of the point where the boundary line between New Castle Hundred and Red Lion Hundred intersects the low watermark on the westerly side of the Delaware River; thence due west to low watermark on the westerly side of the Delaware River; thence by the present boundary lines dividing New Castle Hundred from Red Lion Hundred, Pencader Hundred, White Clay Creek Hundred, Christiana Hundred and the City of Wilmington, to the place of beginning.

(e) Red Lion Hundred comprises that part of New Castle County which is bounded as follows:

Beginning at a point where low watermark on the westerly side of the Delaware River is intersected by the present boundary line between New Castle Hundred and Red Lion Hundred; thence due east and crossing the Delaware River to low watermark on the easterly side of the Delaware River; thence by the last mentioned low watermark to a point which is due east of the point where the boundary line between Red Lion Hundred and St. Georges Hundred intersects the low watermark on the westerly side of the Delaware River; thence due west to low watermark on the westerly side of the Delaware River; thence by the present boundary lines dividing Red Lion Hundred from St. Georges Hundred, Pencader Hundred and New Castle Hundred to the place of beginning.

(f) St. Georges Hundred comprises that part of New Castle County which is bounded as follows:

Beginning at a point where low watermark on the westerly side of the Delaware River is intersected by the present boundary line between Red Lion Hundred and St. Georges Hundred; thence due east and crossing the Delaware River to low watermark on the easterly side of the Delaware River; thence by the last mentioned low watermark to a point where the last mentioned low watermark is intersected by the 12 mile circle; thence westerly and southerly by the boundary line dividing the State of Delaware from the State of New Jersey to a point which is due east of the point where the boundary line between St. Georges Hundred and Appoquinimink Hundred intersects the low watermark on the westerly side of the Delaware River; thence due west to low watermark on the westerly side of the Delaware River; thence by the present boundary lines dividing St. Georges Hundred from Appoquinimink Hundred, the State of Maryland, Pencader Hundred and Red Lion Hundred to the place of beginning.

(Code 1852, § 8; Code 1915, § 10; Code 1915, § 10-A; 40 Del. Laws, c. 6; Code 1935, § 10; 9 Del. C. 1953, § 105.)

## § 106. Hundreds in Kent County.

Kent County is divided into 9 hundreds, as follows: Duck Creek, East Dover, West Dover, Kenton, Little Creek, Milford, Mispillion, North Murderkill and South Murderkill.

(Code 1852, § 9; Code 1915, § 10; Code 1935, § 10; 9 Del. C. 1953, § 106.)

## § 107. Hundreds in Sussex County.

Sussex County is divided into 13 hundreds, as follows: Baltimore, Broad Creek, Broadkiln, Cedar Creek, Dagsboro, Georgetown, Gumboro, Indian River, Lewes and Rehoboth, Little Creek, Nanticoke, North West Fork, and Seaford.

(Code 1852, § 10; Code 1915, § 10; Code 1935, § 10; 9 Del. C. 1953, § 107.)

# Part I
# Provisions Affecting All Counties
## Chapter 3
## County Governments Generally
### Subchapter I
### General Provisions

### § 301. Composition of county governments; change of terminology as to New Castle County.

(a) There shall be a county government in Kent County which shall consist of not less than 3 members.

(b) The government of New Castle County shall be as provided in Chapter 11 of this title. Wherever the words "county government" are used in this title, the words "county council" should be substituted as to New Castle County except in §§ 1501 and 1521(b) of this title. Wherever the words "officials of the county governing body" are used in this title, the words "county councilperson" should be substituted as to New Castle County.

(c) The governing body of Kent and Sussex Counties, whether Levy Court, or County Council, unless otherwise indicated, shall be referred to in Part I of this title as "the county government."

(21 Del. Laws, c. 22, § 2; 22 Del. Laws, c. 50, § 6; 22 Del. Laws, c. 52; 22 Del. Laws, c. 54, § 2; 24 Del. Laws, c. 52, § 1; Code 1915, §§ 1014, 1036, 1045, 1046; 28 Del. Laws, c. 76, §§ 1, 2; 31 Del. Laws, c. 13, § 3; 40 Del. Laws, c. 126, § 2; Code 1935, §§ 1148, 1184, 1195; 9 Del. C. 1953, § 302; 57 Del. Laws, c. 264, § 17; 57 Del. Laws, c. 762, §§ 2A, 2B; 60 Del. Laws, c. 468, §§ 1, 2; 71 Del. Laws, c. 401, § 1.)

### § 302. Officers and employees holding other offices.

(a) No receiver of taxes and county treasurer or sheriff shall, during a term of office, be a member of the county government.

(b) No member of the county government shall, during that member's term of office, be appointed or elected a collector of a state or county tax, or receiver of taxes and county treasurer.

(c) No officer or employee of the New Castle County government shall hold more than 1 position of county office or employment from which that officer or employee derives compensation.

(d) No officer or employee of the Sussex County government shall hold more than 1 position of county office or employment from which that officer or employee derives compensation.

(e) No elected New Castle County official shall hold any other elected position, be employed by the County in any other capacity, or be on a board, commission or agency advising the County.

(f) No officer or employee of the Kent County government shall hold more than 1 position of county office or employment from which that officer or employee derives compensation.

(g) No county government shall require a former employee of a county, who later is elected or appointed to a statutorily defined county office, to give up the former employee's right to receive vested pension benefits from the county, except that the former employee shall be ineligible for additional years of service or additional vested pension benefits, unless the former employee chooses to forego receipt of the former employee's retirement benefits during the term of elected or appointed office.

(Code 1852, § 67; Code 1915, § 1056; Code 1935, § 1224; 9 Del. C. 1953, § 306; 55 Del. Laws, c. 85, § 3L; 57 Del. Laws, c. 762, § 2E; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 2; 73 Del. Laws, c. 35, § 1; 77 Del. Laws, c. 365, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 117, § 1.)

### § 303. Vacancies in county government.

(a) In case of a vacancy in the county government, for any cause, the members of that county government may, by a majority vote of the remaining members, fill that vacancy temporarily pending a special election to fill the vacancy.

(b) The special election shall be held within 6 months of the occurring of the vacancy and shall be held in the same manner as a regular election for a full term would be.

(c) The person so elected shall hold office for the duration of the unexpired term.

(21 Del. Laws, c. 22, § 5; 22 Del. Laws, c. 50, § 4; 22 Del. Laws, c. 54, § 5; Code 1915, §§ 1017, 1039, 1048; 28 Del. Laws, c. 76, § 4; 31 Del. Laws, c. 13, § 6; 40 Del. Laws, c. 126, § 5; Code 1935, §§ 1151, 1187, 1197; 9 Del. C. 1953, § 308; 56 Del. Laws, c. 103, § 6.)

### § 304. County government; supplies for county officers.

Each county government shall furnish to county officers necessary record books, cases, seals and supplies for the use of their respective offices.

(Code 1915, § 1084; Code 1935, § 1246; 9 Del. C. 1953, § 343; 55 Del. Laws, c. 85, § 3E; 57 Del. Laws, c. 762, § 2I; 73 Del. Laws, c. 35, § 2.)

## § 305. Capitation tax.

(a) (1) The government of Kent County annually at a meeting held during the month of April may fix and determine the amount of the capitation tax which the Board of Assessment may assess for the following year.

(2) The government of Sussex County annually at a meeting held during the month of February shall fix and determine the amount of capitation tax which the Board of Assessment shall assess for the following year.

(b) (1) In Kent County such capitation tax if so fixed and determined shall in no case exceed the sum of $5.00 and shall be uniform throughout the County if levied and assessed.

(2) In Sussex County such capitation tax if so fixed and determined shall in no case exceed the sum of $10 and shall be uniform throughout the County if levied and assessed.

(c) Such capitation tax shall be levied upon each citizen of 21 years or older, residing in the county.

(d) In New Castle County no capitation tax shall be levied or collected.

(21 Del. Laws, c. 23, § 1; Code 1915, §§ 1060, 1060A; 28 Del. Laws, c. 76, § 13; 31 Del. Laws, c. 13, § 14; 34 Del. Laws, c. 86; Code 1935, § 1226; 9 Del. C. 1953, § 345; 55 Del. Laws, c. 85, § 3C; 55 Del. Laws, c. 250, §§ 1-3; 56 Del. Laws, c. 103, § 7; 57 Del. Laws, c. 762, §§ 2F, 2G; 66 Del. Laws, c. 191, §§ 1, 2; 73 Del. Laws, c. 35, § 3; 78 Del. Laws, c. 338, § 1.)

## § 306. Agritourism activities on farms.

(a) "Agritourism activity" means any activity that allows members of the general public to view or enjoy rural activities, including: farming; ranching; wineries; historical, cultural or harvest-your-own activities; guided or self-guided tours; bed and breakfast accommodations; or temporary outdoor recreation activities. "Agritourism activity" includes, but is not limited to: planting, cultivation, irrigation or harvesting of crops; acceptable practices of animal husbandry; barn parties or farm festivals; livestock activities, not to include rodeos; hunting; fishing; swimming; boating, canoeing or kayaking; temporary camping; picnicking; hiking; diving; water skiing or tubing; paintball; and nonmotorized freestyle, mountain or off-road bicycling. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

(b) Agritourism activities may be allowed statewide on farms of 10 or more acres subject to the provisions of this title adopted for each county; provided, however, that except for the "related uses" specified in § 909 of Title 3, no agritourism activities shall be permitted on farmlands which are subject to the Agricultural Lands Preservation and Forestland Preservation programs established in Chapter 9 of Title 3.

(76 Del. Laws, c. 409, § 1.)

## § 307. Woods Haven School for Girls; appropriations [Repealed].

Repealed by 64 Del. Laws, c. 73, § 1, effective June 27, 1983.

## § 308. Children's Bureau of Delaware; appropriations.

The county governments of Kent County, of New Castle County and of Sussex County, shall have authority to make an appropriation, or appropriations, annually to the Children's Bureau of Delaware in aid of the objects of the corporation.

(16 Del. Laws, c. 477, § 2; 18 Del. Laws, c. 229, § 6; 22 Del. Laws, c. 42; Code 1915, § 2221; 34 Del. Laws, c. 154, § 8; Code 1935, § 2545; 9 Del. C. 1953, § 348; 55 Del. Laws, c. 85, § 3E; 57 Del. Laws, c. 762, § 2L.)

## § 309. Ambulance, fire protection and police services; appropriations.

(a) The county governments of Kent County, of New Castle County and of Sussex County may appropriate annually the sum of $750 to each fire company in their respective counties outside the limits of the City of Wilmington furnishing an ambulance for the benefit of the residents thereof. The sum appropriated shall be used for the maintenance of ambulance service.

(b) Where an area of real property owned by a county is bounded by a wall, fence or other structure which has gates or other lockable entrances, the county shall notify those public agencies within the county which provide ambulance, fire and police services of the location of such gates and entrances. A key to each such enclosed area shall be provided by the county to the ambulance service, fire company and police department which are closest to the enclosed area. For purposes of this subsection, the words "real property" shall include all unimproved land only and shall not include buildings.

(Code 1935, c. 43; 42 Del. Laws, c. 104, § 1; 9 Del. C. 1953, § 349; 50 Del. Laws, c. 54, § 1; 55 Del. Laws, c. 85, § 3D; 57 Del. Laws, c. 762, § 2H; 63 Del. Laws, c. 166, §§ 1, 2.)

## § 310. Parking spaces for use by persons with disabilities.

(a) The county government of each of the 3 Delaware counties and the municipal government of each incorporated municipality within this State shall adopt regulations or ordinances regarding the duty of individuals and artificial entities to construct and maintain accessible parking spaces consistent with § 4183A of Title 21.

(b) The county government of each of the 3 Delaware counties and the municipal government of each incorporated municipality within this State shall adopt regulations or ordinances requiring that no new accessible parking space be constructed and no existing accessible

parking space be installed, restriped, repainted, resurfaced, or otherwise altered until the county government or municipality issues a permit as required by § 4183A of Title 21. Upon completion, the entity issuing the permit shall confirm compliance as set forth in § 4183A(d) of Title 21.

(c) The regulations or ordinances adopted pursuant to subsections (a) and (b) of this section must include an enforcement provision, a penalty provision, and a provision which requires an enforcement officer to first issue a written warning to an individual or artificial entity who is required to obtain a permit and to construct and maintain accessible parking spaces, but has failed to do so, consistent with the obligations under § 4183A of Title 21.

(d) To comply with this section, a municipality may elect to adopt the signage regulations or ordinances of the county government of the county in which the municipality is located. A municipality which elects to do so may also adopt additional regulations or ordinances as required by its own particular conditions. Whether a municipality adopts its own signage regulations or ordinances, or adopts the regulations or ordinances of the county along with additional regulations or ordinances to meet particular conditions, the municipality's adopted regulations or ordinances may not be less restrictive than those of the county.

(74 Del. Laws, c. 114, § 1; 85 Del. Laws, c. 225, § 4.)

## § 311. Insurance and workmen's compensation for county employees.

(a) The county governments of Kent County, of New Castle County and of Sussex County may enter into contracts with some reliable insurance company or companies doing business in the State to insure the employees or appointed officers of the counties against injury or death incurred by such employees or appointed officers while performing their duties as employees or appointed officers of the counties.

(b) The county governments of Kent County, of New Castle County and of Sussex County may at any time elect to be bound by the compensatory provisions of the Delaware Workmen's Compensation Laws, and the county governments shall be the sole judges of the kind of insurance and the amount thereof which will best execute the purposes and provisions of this section.

(36 Del. Laws, c. 118; 37 Del. Laws, c. 100; Code 1935, § 1253; 9 Del. C. 1953, § 351; 55 Del. Laws, c. 85, § 3K; 57 Del. Laws, c. 762, § 2N.)

## § 312. Continuance of system of personnel administration.

If any county government has adopted or shall adopt a system of personnel administration based on individual merit, said system shall be regarded as repealing any provisions of this title which may be inconsistent therewith.

(9 Del. C. 1953, § 352; 56 Del. Laws, c. 471; 57 Del. Laws, c. 762, § 2O.)

## § 313. Use of mobile homes on farms.

Every owner of a farm of less than 50 acres shall be permitted to have 1 mobile home located on said farm and every owner of a farm of 50 acres or more shall be permitted to have 2 mobile homes located on said farm. Such mobile homes shall be used and inhabited by any person or persons so permitted by the owner.

(9 Del. C. 1953, § 353; 57 Del. Laws, c. 465; 60 Del. Laws, c. 134, § 1; 60 Del. Laws, c. 672, § 1.)

## § 314. Award of contracts for public work or goods.

(a) No elected official of the county governing body shall vote for or consent to the doing of any work and labor for any county or county government, or vote for or consent to the furnishing, having or using by or for the account of any county or county government of any merchandise, tools, implements, machinery or materials whatsoever, where the cost in any particular case will probably exceed the contracting thresholds set forth by Delaware's Contracting and Purchasing Advisory Council pursuant to § 6913(d)(4) of Title 29 or otherwise set forth by state law, whether the work, labor, merchandise, tools, implements, machinery or materials shall be required for new work or for repairs upon old work, unless and until the county government shall publicly invite sealed proposals for the doing of such work and furnishing of such merchandise, tools, implements, machinery and materials, and give the contract resulting therefrom and therefor to the lowest responsible bidder or bidders.

(b) Bids so obtained shall be opened publicly in the presence of bidders, or their representatives, who may desire to attend.

(c) The county government may require of such bidder or bidders security for the faithful performance of the contract.

(d) Notwithstanding this section or any other law, each county government may contract for engineering, legal or other professional services requiring special skills or training without requesting competitive bids and without awarding such contract to the lowest bidder.

(e) This section shall not apply to the purchase of printed matter for public libraries. Printed matter shall be defined, for purposes of this section, as materials typically made available to the public by public libraries and shall include, but not be limited to, books and magazines.

(f) [Repealed.]

(g) Notwithstanding this section or any other law, each county government has the same power and authority with respect to sole source procurement, emergency needs, contract performance, multiple source contracting granted to the State under Chapter 69 of Title 29.

(21 Del. Laws, c. 22, § 8; 22 Del. Laws, c. 273, § 5; 26 Del. Laws, c. 83, § 3; Code 1915, §§ 1025, 1048; Code 1935, §§ 1160, 1227; 46 Del. Laws, c. 130, § 1; 9 Del. C. 1953, § 371; 55 Del. Laws, c. 85, § 3G; 57 Del. Laws, c. 762, § 2P; 58 Del. Laws, c.

463; 59 Del. Laws, c. 11, § 1; 62 Del. Laws, c. 16, § 1; 63 Del. Laws, c. 45, § 1; 63 Del. Laws, c. 153, §§ 1, 2; 64 Del. Laws, c. 174, §§ 1, 2; 71 Del. Laws, c. 401, § 3; 74 Del. Laws, c. 238, § 1; 77 Del. Laws, c. 68, § 1; 84 Del. Laws, c. 105, § 1.)

## § 315. Records open to inspection.

The accounts, records, documents, papers and writings which in anywise pertain or relate to the financial accounts of the counties shall be open to inspection by any taxpayer of the county in which such accounts, records, documents, papers and writings are located.

(38 Del. Laws, c. 71, § 4; Code 1935, § 1257; 9 Del. C. 1953, § 376.)

## § 316. Fines and forfeitures payable to county; neglect to pay over; penalty.

(a) All fines and forfeitures not especially otherwise appropriated shall belong to the county in which such fines or forfeitures may be imposed or incurred.

(b) They shall be paid to the treasurer of the county or the director of finance by the officer collecting or chargeable with them.

(c) If such officer neglects this duty for 3 months after the officer receives or becomes chargeable with any fine or forfeiture, the officer shall pay in addition to the amount thereof the interest at the rate of 20 percent per annum, to be computed from the time the fine or forfeiture was received or the officer became chargeable therewith.

(d) The whole may be recovered in an action in the name of the State for the use of the county to which the same may belong.

(16 Del. Laws, c. 310, § 1; Code 1915, § 1078; Code 1935, § 1244; 9 Del. C. 1953, § 377; 55 Del. Laws, c. 85, § 3H; 70 Del. Laws, c. 186, § 1.)

## § 317. Title to real estate owned by county.

(a) Title to land acquired by a county shall be taken and held in the name of the county wherein the land is situated. Title to land held by a county as heretofore provided by this section is hereby changed to the name of the county.

(b) Title to county land may be conveyed by the county pursuant to an ordinance, or a resolution where ordinances are not provided for, duly advertised and adopted by the county authorizing the conveyance of the specific land, irrespective of whether title was acquired as heretofore provided by this section.

(26 Del. Laws, c. 255, §§ 1, 2; 27 Del. Laws, c. 4; Code 1915, § 1053; 31 Del. Laws, c. 13, § 12; Code 1935, § 1217; 9 Del. C. 1953, § 378; 59 Del. Laws, c. 366, § 1.)

## § 318. Legal proceedings.

All suits, actions or proceedings brought by the government of Kent County, in and about the administration of the government of the county, shall be in the name of the government of Kent County. All such suits, actions or proceedings brought by the government of New Castle County or the government of Sussex County shall be brought in the name of the county in which such suit, action or proceedings arise.

(Code 1915, § 1080B; 28 Del. Laws, c. 76, § 19; Code 1935, § 1200; 9 Del. C. 1953, § 379; 55 Del. Laws, c. 85, § 3I; 57 Del. Laws, c. 762, § 2Q.)

## § 319. Review of comprehensive plans.

At least every 5 years a county shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the county or in the surrounding areas. The adopted comprehensive plan shall be revised, updated and amended as necessary, and re-adopted at least every 10 years.

(78 Del. Laws, c. 129, § 4.)

## § 320. Property tax credits for individuals with disabilities.

(a) The county government of New Castle County shall provide for an exemption to real property taxes for an individual with a disability as follows:

(1) For an individual with a disability, an exemption that at least meets the exemption provided under § 14.06.303 of the New Castle County Code on August 30, 2017.

(2) For an individual with a disability who became disabled as a result of service in and while in the service of any branch of the United States armed services, an additional exemption that at least meets the exemption provided under § 14.06.304 of the New Castle County Code on August 30, 2017.

(b) The county government of Kent County shall provide for an exemption to real property taxes for an individual with a disability as follows:

(1) For an individual with a disability, an exemption that at least meets the exemption provided under § 191-9 of the Kent County Code on August 30, 2017.

(2) For an individual with a disability who incurred the disability as a result of and while in the service of any branch of the United States armed services, an additional exemption that at least meets the exemption provided under § 191-9 of the Kent County Code

on August 30, 2017, for individuals who incurred their disability as a result of and while in the service of any branch of the United States armed services.

(c) The county government of Sussex County shall provide for an exemption to real property taxes for an individual with a disability that at least meets the exemption provided under § 103-1 of the Sussex County Code on August 30, 2017.

(d) For an individual with a disability to qualify for an exemption to real property taxes under this section, the individual must meet the qualifications established by the county government from which the individual is seeking the exemption.

(e) Each county government may increase or expand exemptions to real property taxes for an individual with a disability.

(81 Del. Laws, c. 152, § 1.)

### § 321. Notice of violation; manufactured home community.

If a county government finds a violation of a health or safety provision or requirement, adopted by the county government, in a manufactured home community, the county government must send a copy of the notice of the violation to all of the following:

(1) The State Representatives and Senators in whose district the violation occurred.

(2) The Department of Justice.

(3) The Delaware Manufactured Home Relocation Authority.

(83 Del. Laws, c. 341, § 8.)

### § 322. Composting.

(a) The composting of yard waste, food residuals, and other organic materials for commercial purposes must be allowed on private properties zoned for agricultural conservation, outside the growth zone, and consisting of 4 acres or more.

(b) A county government may limit the square footage of activity allowed under subsection (a) of this section, but must allow for at least 5,000 square feet.

(85 Del. Laws, c. 402, § 1.)

## Subchapter II

## County Governments

### § 330. General powers and duties.

(a) The county government of each county shall:

(1) Except as otherwise provided by law, have the direction, management and control of the business and finances of the respective counties; and

(2) Have full and complete jurisdiction over all matters and things now or hereafter vested by law in the county governments of the respective counties, or in, or appertaining to, the office of the county governing officials of each county; and

(3) Have and exercise every power, privilege, right and duty which belongs and appertains to the county governments of the respective counties, or to the office of the county governing officials of the county; and

(4) Have the power and authority to impose and collect by ordinance a tax upon the transfer of real property situate within unincorporated areas of the county, subject to the conditions and limitations provided in § 8102 of this title.

(b) The county governments of the several counties shall take care that:

(1) The affairs of the respective counties are administered with efficiency and economy; and

(2) The officers and employees of the counties, chosen and appointed by the county governments, shall faithfully perform the duties imposed upon them.

(c) The county governments shall enact no law or regulation prohibiting, restricting or licensing the ownership, transfer, possession or transportation of firearms or components of firearms or ammunition except that the discharge of a firearm may be regulated; provided any law, ordinance or regulation incorporates the justification defenses as found in Title 11 of the Delaware Code.

(d) Notwithstanding subsection (c) of this section, county governments may adopt ordinances regulating the possession of firearms, ammunition, components of firearms, or explosives in police stations and county buildings which contain all of the provisions contained in this subsection. Any ordinance adopted by a county government regulating possession of firearms, ammunition, components of firearms, or explosives in police stations or county buildings shall require that all areas where possession is restricted are clearly identified by a conspicuous sign posted at each entrance to the restricted areas. The sign may also specify that persons in violation may be denied entrance to the building or be ordered to leave the building. Any ordinance adopted by county governments relating to possession in police stations or county buildings shall also state that any person who immediately foregoes entry or immediately exits such building due to the possession of a firearm, ammunition, components of firearms, or explosives shall not be guilty of violating the ordinance. County governments may establish penalties for any intentional violation of such ordinance as deemed necessary to protect public safety. An ordinance adopted by the county government shall not prevent the following in county buildings or police stations:

(1) Possession of firearms, components of firearms, and ammunition or explosives by law-enforcement officers;

(2) Law-enforcement agencies receiving shipments or delivery of firearms, components of firearms, ammunition or explosives;

(3) Law-enforcement agencies conducting firearms safety and training programs;

(4) Law-enforcement agencies from conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;

(5) Compliance by persons subject to protection from abuse court orders;

(6) Carrying firearms and ammunition by persons who hold a valid license pursuant to either § 1441 or § 1441A of Title 11 so long as the firearm remains concealed except for inadvertent display or for self-defense or defense of others;

(7) Officers or employees of the United States duly authorized to carry a concealed firearm;

(8) Agents, messengers and other employees of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property and are engaged in the lawful execution of such duties.

(e) For the purposes of this section, "county building" means a building where a county government entity meets in its official capacity or containing the offices of elected officials and of public employees actively engaged in performing governmental business but excluding any parking facility; provided, however, that if such building is not a county-owned or -leased building, such building shall be considered a county building for the purposes of this section only during the time such government entity is meeting in or occupying such a building.

(22 Del. Laws, c. 54, § 5; Code 1915, §§ 1018, 1048; 28 Del. Laws, c. 76, § 4; 31 Del. Laws, c. 13, § 17; 40 Del. Laws, c. 126, § 6; Code 1935, §§ 1153, 1219, 1230; 9 Del. C. 1953, § 341; 65 Del. Laws, c. 133, § 2; 67 Del. Laws, c. 415, § 1; 80 Del. Laws, c. 166, § 1.)

## § 331. Tie vote in election; appointment by Governor.

Should any 2 or more persons voted for as officials of the county governing body receive an equal and the highest number of votes cast at any election, the Superior Court, sitting as a board of canvass in the county in which the tie vote occurs, shall certify the fact to the Governor who shall forthwith appoint 1 of the candidates involved in the tie to be 1 of the county governing officials for the county. The person appointed shall hold the office for the term of 2 years from the first Tuesday in January then next ensuing.

(21 Del. Laws, c. 22, § 5; 22 Del. Laws, c. 50, § 5; 22 Del. Laws, c. 54, § 5; Code 1915, §§ 1018, 1040, 1049; 28 Del. Laws, c. 76, § 6; 31 Del. Laws, c. 13, § 5; 40 Del. Laws, c. 126, § 6; Code 1935, §§ 1152, 1186, 1196; 9 Del. C. 1953, § 307.)

## § 332. Traveling expenses [Repealed].

(33 Del. Laws, c. 72, § 3; Code 1935, § 1154; 9 Del. C. 1953, § 310; 71 Del. Laws, c. 401, § 4; repealed by 78 Del. Laws, c. 249, § 1, eff. June 5, 2012.)

## § 333. Oath of office.

The oath or affirmation of office to be taken by an elected official of the county governing body may be administered by the clerk of the peace or any such elected official and an entry thereof shall be made in the minutes of the county governing body.

(Code 1852, § 65; Code 1915, §§ 1047, 1055; 28 Del. Laws, c. 76, § 3; 31 Del. Laws, c. 13, § 7; Code 1935, § 1223; 9 Del. C. 1953, § 311.)

## § 334. Organization meeting; election of president.

(a) The governing bodies of the respective counties shall meet for organization on the first Tuesday in January following the biennial general election, or on the date specified by ordinance in the respective county.

(b) After taking the oath of office prescribed by the Constitution, each governing body shall elect 1 of its members to be president. In New Castle County the President of County Council shall be elected by a county wide ballot.

(21 Del. Laws, c. 22, § 5; 22 Del. Laws, c. 50, § 3; 22 Del. Laws, c. 54, § 5; Code 1915, §§ 1015, 1038, 1047; 28 Del. Laws, c. 76, § 3; 31 Del. Laws, c. 13, § 7; 40 Del. Laws, c. 126, § 3; Code 1935, §§ 1149, 1188, 1198; 9 Del. C. 1953, § 312; 71 Del. Laws, c. 401, §§ 5, 6.)

## § 335. Regular meetings [Repealed].

Repealed by 65 Del. Laws, c. 450, § 1, effective July 8, 1986.

## § 336. Special meetings.

(a) Special meetings of any governing body may be held at the direction of its president or any 2 members.

(b) The clerk of the peace shall notify each elected official of a county governing body of any special meeting. In New Castle County the Clerk of Council shall notify all members of County Council of any special meeting.

(c) Special meetings shall be held at the usual place of meeting. Any lawful business may be transacted at a special meeting. In New Castle County special meetings may be held at any public location in New Castle County in accordance with Council rules.

(Code 1852, § 69; 16 Del. Laws, c. 315, § 1; Code 1915, §§ 1016, 1047, 1057; 28 Del. Laws, c. 76, § 3; 31 Del. Laws, c. 13, § 7; 40 Del. Laws, c. 126, § 4; Code 1935, §§ 1150, 1222; 9 Del. C. 1953, § 314; 71 Del. Laws, c. 401, §§ 7, 8.)

## § 337. Quorum [Repealed].

Repealed by 65 Del. Laws, c. 450, § 2, effective July 8, 1986.

## § 338. Adjournment.

Any governing body may adjourn from time to time as occasion shall require. If only 1 elected official attends at the time fixed for a meeting of the governing body, that elected official may adjourn the governing body. If no elected official attends, the clerk of the peace may adjourn the governing body.

(Code 1915, §§ 1016, 1047, 1057; 28 Del. Laws, c. 76, § 3; 31 Del. Laws, c. 13, § 7; 40 Del. Laws, c. 126, § 4; Code 1935, §§ 1150, 1220; 9 Del. C. 1953, § 316.)

## § 339. Rules.

The governing body of each county may make rules for its government not inconsistent with the Constitution and laws of the State.

(21 Del. Laws, c. 22, § 5; 22 Del. Laws, c. 50, § 3; 22 Del. Laws, c. 54, § 5; Code 1915, §§ 1015, 1038, 1047; 28 Del. Laws, c. 76, § 3; 31 Del. Laws, c. 13, § 7; 40 Del. Laws, c. 126, § 3; Code 1935, §§ 1149, 1188, 1198; 9 Del. C. 1953, § 317.)

## § 340. Attorneys for governing body.

The governing body in each county may employ legal counsel.

(Code 1915, § 1054; Code 1935, § 1218; 9 Del. C. 1953, § 318.)

## § 341. Bailiffs to governing body; constables.

The governing body in each county may select and require 2 constables of the county to attend its sittings, as bailiffs, who shall attend the same and obey all the reasonable requirements of the governing body under penalty of $10, to be recovered by indictment.

(Code 1852, § 107; Code 1915, § 1073; Code 1935, § 1229; 9 Del. C. 1953, § 319.)

## § 342. Fiscal year for counties and county agencies.

(a) The fiscal year of the governing body of each county shall begin on July 1 of each calendar year and end on June 30 of the succeeding calendar year.

(b) All county departments, bureaus, divisions, offices, boards, commissions, and other agencies, supported entirely or in part by the governing body of any county, shall have the same fiscal year as that of the governing body.

(45 Del. Laws, c. 119, §§ 1, 2; 9 Del. C. 1953, § 320.)

## § 343. Form of accounts and warrants.

The governing bodies may prescribe the form in which the several accounts to be rendered to them, shall be drawn and verified, and shall have power to determine the form of all warrants to be drawn in payment of demands.

(Code 1852, § 106; Code 1915, § 1072; Code 1915, § 1052A; 28 Del. Laws, c. 76, § 9; 31 Del. Laws, c. 13, § 26; Code 1935, § 1225; 9 Del. C. 1953, § 372.)

## § 344. Rejection and forfeiture of assigned claims.

If it appears to the governing body that any demand presented to it for allowance has been assigned or contracted for, the governing body shall reject it and the same shall be forfeited.

(Code 1852, § 117; Code 1915, § 1077; Code 1935, § 1243; 9 Del. C. 1953, § 373.)

## § 345. Dealing in county warrants by elected officials.

No elected official of a county governing body shall directly or indirectly cash, buy up, purchase or redeem any county warrant drawn in favor of any other person.

(22 Del. Laws, c. 273, § 4; Code 1915, § 1024; 28 Del. Laws, c. 76, § 9; 31 Del. Laws, c. 13, § 19; Code 1935, § 1221; 9 Del. C. 1953, § 374.)

## § 346. Gifts or rebates; penalty.

Whoever, by special contract or otherwise, does or performs any work, labor or service of any kind for, or furnishes any merchandise, goods, printing, tools, implements, machinery or materials of any kind or description, to or for the use of any county or the governing body of any county or any elected official of any governing body in his or her official capacity, and directly or indirectly to any elected official of any county or to any other person whomsoever, gives, conveys, allows, offers or tenders any rebate, commission, profit, gift, emolument, rake-off or any pecuniary benefit whatsoever from the price of or on account or because of the doing or performing of such work, labor or service for any county, governing body or elected official thereof, or from the price of or on account or because of the furnishing of merchandise, goods, printing, tools, implements, machinery or materials of any kind or description to or for the use of any

county, governing body or elected official thereof, shall be fined in such amount as is determined by the governing body, but not less than 3 times the amount of the price charged by the offending person for the work, labor, service, merchandise, goods, printing, tools, implements, machinery or materials so done or furnished by the offending person, and also shall be adjudged, deemed and held incapable of thereafter performing any service, or furnishing any material or merchandise whatsoever to, for or for the use of the counties, governing bodies or any elected official thereof, forever.

(22 Del. Laws, c. 273, § 7; Code 1915, §§ 1027, 1052A; 28 Del. Laws, c. 76, § 9; Code 1935, § 1228; 9 Del. C. 1953, § 375; 70 Del. Laws, c. 186, § 1.)

## § 347. Investigation; power to compel attendance of witnesses and to administer oaths.

(a) The county government may summon and compel the attendance of any witnesses deemed necessary by the elected officials of the county governing body to give information relative to their duties.

(b) Any such elected official may administer oaths or affirmations to witnesses appearing before the governing body.

(Code 1915, § 1073; 28 Del. Laws, c. 76, § 4; 31 Del. Laws, c. 13, § 17; Code 1935, §§ 1229, 1230; 9 Del. C. 1953, § 342.)

## § 348. Annual audit; qualifications and selection of auditors.

(a) The county government shall procure the services of 1 or more certified public accountants to audit the accounts of the county at the end of its fiscal year.

(b) Every certified public accountant employed under subsection (a) of this section shall be certified under the laws of Delaware or under the laws of some state having substantially the same qualifications for the certification of public accountants as are required by the laws of Delaware. The county government shall contract with a certified public accountant or certified public accountants, after first giving notice by newspaper advertisement or otherwise of the contemplated employment, and shall thereafter select the lowest responsible bidder for the purpose of carrying out the requirements of this section. The county government may appropriate reasonable sums from the general funds of the county for the payments to the certified public accountants for auditing the county books.

(38 Del. Laws, c. 71, §§ 1-3; Code 1935, §§ 1254-1256; 9 Del. C. 1953, § 344; 50 Del. Laws, c. 343, § 1.)

## § 349. Public advertising and notices.

Notwithstanding any provision to the contrary, public advertising and notices by any county in the State of any nature may include use of the State's "electronic procurement advertising system" required by § 6902(12) of Title 29 or other website allowing for the electronic posting of local government bid opportunities, and the website designed pursuant to §§ 10004(e)(5), 10115(b) and 10124(1) of Title 29.

(78 Del. Laws, c. 288, § 9; 82 Del. Laws, c. 36, § 1; 83 Del. Laws, c. 65, § 2; 84 Del. Laws, c. 124, § 1; 84 Del. Laws, c. 513, § 1.)

# Part I
# Provisions Affecting All Counties

## Chapter 4
## Data Centers

(85 Del. Laws, c. 447, § 1.)

### § 401. Nondisclosure agreements prohibited.

(a) For purposes of this chapter:

(1) “County” means a county or any person or entity with authority to act on its behalf.

(2) “Data center” means a facility consisting of 1 or more buildings that has a primary purpose of providing for the storage, management, processing, or transmission of digital data, and that contains equipment such as routers, graphics processing units, servers, and switches.

(3) “Large-scale data center” means a data center that uses or is able to use 100 megawatts of power or more.

(4) “Nondisclosure agreement” means a contract, agreement, clause, term, condition, or understanding, whether verbal or written, that has the purpose or effect of restricting or prohibiting the disclosure of information, including confidentiality agreements, secrecy provisions, side letters, memoranda of understanding, or settlement agreements.

(b) A county may not enter into a nondisclosure agreement if the nondisclosure agreement restricts the county from disclosing information to the public about potential or actual large-scale data center development in the county.

(c) An agreement or contract, or a provision of an agreement or contract, that violates this section is against public policy and is void and unenforceable.

(85 Del. Laws, c. 447, § 1.)

# Part I
# Provisions Affecting All Counties
## Chapter 5
## Suburban Community Improvements
## Subchapter I
## Sidewalks, Streets, Signs, Drainage, Storm Sewers

### § 501. Definitions.

As used in this subchapter:

(1) "Clerk of the peace" means the clerk of the peace of the county in which the suburban community is situated.

(2) All references to the "county engineer" shall be construed to mean the General Manager of the Department of Special Services insofar as New Castle County is concerned.

(3) a. "County government" means the county governing body of each county.

b. Whenever the words "county government" are used in this chapter, the words "County Council" shall be substituted regarding New Castle County.

(4) All references to "receiver of taxes" and "county treasurer" and "board of assessment" shall be construed to mean the "department of finance" insofar as Sussex County is concerned and "Office of Finance" insofar as New Castle County is concerned.

(5) a. "Suburban community" means any unincorporated community within this State:

1. Containing at least 5 separate and distinct property owners; provided, that each parcel of land, condominium or other individually owned unit of a multiunit building shall be deemed to have no more than 1 owner for the purposes of this subchapter;

2. In the case of individually owned parcels of land whose streets aggregate a minimum of 500 linear feet of road surface or in the case of condominium or other type of individually owned units of multiunit buildings whose streets aggregate a minimum of 300 feet of road surfacing; and

3. Which, in the opinion of the county government and the State Department of Transportation, is so situated as to form a unit which is reasonably and economically capable of being improved by the laying, repairing or completion of streets, signs, sidewalks and installation of surface drainage and storm sewers.

b. In addition to the foregoing such unincorporated community within this State must:

1. Be located on a highway which is part of the state highway system or will be connected to the state highway system when the projects provided for in this subchapter are complete and which street shall be either maintained by the State upon completion pursuant to the requirements of Title 17 and the rules, regulations or standards adopted pursuant thereto; or

2. Shall be built pursuant to county rules and regulations requiring design and building standards and a means or mechanism to provide for the perpetual maintenance of such suburban community streets as provided herein.

(45 Del. Laws, c. 123, § 2; 46 Del. Laws, c. 292, § 1; 9 Del. C. 1953, § 501; 55 Del. Laws, c. 85, §§ 4A, 4B; 57 Del. Laws, c. 762, § 3B; 59 Del. Laws, c. 180, § 2; 60 Del. Laws, c. 133, § 1; 64 Del. Laws, c. 357, § 1; 71 Del. Laws, c. 401, §§ 9-11.)

### § 502. Bonds; power of county government to issue; terms of; faith and credit of county pledged to payment of bonds.

(a) In order to carry out this subchapter, the government of any county of this State may issue bonds in an amount or amounts, and under such terms and conditions, not inconsistent with this subchapter as may be determined by such body.

(b) The bonds shall mature not later than 20 years after the date of issue, shall bear interest at the most advantageous rate attainable by the county government and the income therefrom shall not be subject to state taxation. The bonds shall be issued in the form prescribed by the county government and shall be either registered bonds or bearer with coupons convertible into fully registered bonds, as may be determined by the county government. Debt incurred by the county government pursuant to this subchapter may be represented by uncertificated obligations of the county government which may be authorized in accordance with the same procedures applicable to bonds which are permitted to be issued under this subchapter, and the county government may determine all procedures appropriate to the establishment of a system of issuing uncertificated debt. The bonds may, at the discretion of the county government, be made redeemable at par plus accrued interest on any interest payment date upon terms and conditions to be stated in the bonds.

(c) The full faith and credit of the county is pledged to insure the payment of any bond issue, and all interest thereon, created and sold under this subchapter.

(d) The county government may raise by the levy of taxes upon all the property taxable by the county such moneys, in addition to available moneys held in the sinking fund provided for in § 532 of this title, as are needed to pay the bonds and the interest thereon as the same become due and payable.

(45 Del. Laws, c. 123, §§ 1, 31; 9 Del. C. 1953, § 502; 49 Del. Laws, c. 356, § 1; 55 Del. Laws, c. 85, § 4A; 58 Del. Laws, c. 45; 63 Del. Laws, c. 142, § 7; 64 Del. Laws, c. 318, § 1.)

## § 503. Petition to county government for improvements; who may petition; contents.

(a) The freeholders of a suburban community owning 50 percent or more of the front footage of property abutting the contemplated improvement or improvements in the suburban community may, at any time, present a petition to the county government that shall:

(1) State that, in the opinion of the signers of the petition, the community would be improved by the laying, repairing or completion of sidewalks or streets, installation of street signs, installation of surface drainage and storm sewers, or any 1 of such improvements; and

(2) Request that the county government proceed in accordance with the provisions of this subchapter to issue bonds to provide the money for the improvements.

(b) Each petition, when presented, shall have attached to it as a part thereof a drawing, which shall be obtained from the Department of Transportation, showing the street layout and the extent of the improvements.

(45 Del. Laws, c. 123, § 3; 46 Del. Laws, c. 292, § 2; 48 Del. Laws, c. 90, § 1; 9 Del. C. 1953, § 503; 55 Del. Laws, c. 85, § 4A; 59 Del. Laws, c. 180, § 3; 60 Del. Laws, c. 503, § 22.)

## § 504. Survey and plot of community by State Department of Transportation.

Promptly upon the filing of a petition as prescribed in § 503 of this title, the county government shall adopt a resolution requesting the State Department of Transportation to survey and make a plot of the community, which shall show:

(1) The boundaries of the community;

(2) The streets as then existing;

(3) The names, location and post-office addresses of all freeholders in the community, as they appear on the records of the board of assessment of the county in which the suburban community is located; and

(4) The street frontage in feet owned by each freeholder and, in the case of corner properties the street frontage and street sideage in feet owned by each freeholder.

(45 Del. Laws, c. 123, § 5; 47 Del. Laws, c. 331, § 1; 9 Del. C. 1953, § 504; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 503, § 22.)

## § 505. Determination by county government after receipt of survey and plot.

Within 15 days after receipt by the county government of the survey and plot required by § 504 of this title, the county government shall meet and determine whether the community is a suburban community within the meaning of § 501 of this title.

(45 Del. Laws, c. 123, § 4; 46 Del. Laws, c. 292, § 3; 9 Del. C. 1953, § 505; 55 Del. Laws, c. 85, § 4A.)

## § 506. Division of Highways data.

(a) Immediately after the determination by the county government and the Division of Highways of the State Department of Transportation (Division) that the community in question meets the requirements of a suburban community specified in § 501(5) of this title, the Division, if such streets are to be maintained by the State, or the county, if such streets are not to be maintained by the State, shall advise the owners of such community of the requirements of that respective governmental agency. The owners shall be required to prepare and submit such surveys, plans, specifications and estimates of the cost of the improvement or improvements planned for such community.

(b) The Division or county may within its discretion prepare such surveys, plans, specifications and estimates as may be required on the owners behalf and may charge such owners reasonable costs for services provided. In no case shall the Division or the county provide or extend other than minimal costs or services to the owners of such community.

(c) In the preparation and submittal of surveys, plans, specifications and estimates of the cost of such improvements, the Division or county shall confer with the regional planning commission or department of planning of the county in which the suburban community is situated, if the county has a regional planning commission or department of planning. In no event shall the width of the right-of-way in such community be less than 10 feet.

(45 Del. Laws, c. 123, § 6; 9 Del. C. 1953, § 506; 53 Del. Laws, c. 255; 55 Del. Laws, c. 85, § 4A; 59 Del. Laws, c. 215, § 1; 60 Del. Laws, c. 503, § 22; 64 Del. Laws, c. 357, § 4.)

## § 507. Election to authorize bond issue; fixing time for holding.

(a) Upon the submission by the Director of the Division of Highways of the Department of Transportation to the county government of complete plans, specifications and estimates covering the improvements, the county government shall fix a date for an election, at which all citizens and real property owners of the community may vote, on the question whether the county government should proceed to issue bonds in the manner hereinafter provided, in an amount sufficient to finance the cost of the improvements contemplated and shall include costs estimated by the Division of Highways for preliminary engineering, which shall not be reimbursable in excess of 10 percent of the estimated project cost, and for construction inspection at the rate of 10 percent of the amount of the contract bid.

(b) The election shall be held not less than 20 days nor more than 60 days after the submission of the plans, specifications and estimates to the county government.

(45 Del. Laws, c. 123, § 7; 47 Del. Laws, c. 331, § 2; 9 Del. C. 1953, § 507; 53 Del. Laws, c. 255; 55 Del. Laws, c. 85, § 4A; 58 Del. Laws, c. 44, §§ 1, 2; 60 Del. Laws, c. 503, § 22; 60 Del. Laws, c. 609, § 1; 76 Del. Laws, c. 355, § 1.)

## § 508. Contents of notice of election.

Thereafter, the election shall be held at such time as may be fixed by the county government and shall be previously advertised by posting a notice, in 4 of the most public places within the community, at least 30 days prior thereto and by publishing a notice in a newspaper published within the county of such community and having a general circulation therein, once in each of 4 weeks preceding the week in which the election is held. Such notice shall state the time and place of the election, and further state that the purpose of the election is to determine whether a majority of the residents of the community and the real property owners are in favor of the issuance of bonds by the county government to cover the cost of the improvement or improvements contemplated. The notice shall also state the total amount of the proposed bond issue and a clear and concise description of each of the improvements contemplated together with the estimated cost of each improvement and the total cost of all improvements and shall include the costs of preliminary engineering and construction inspection as set forth elsewhere in this subchapter.

(45 Del. Laws, c. 123, § 8; 47 Del. Laws, c. 331, § 3; 9 Del. C. 1953, § 508; 55 Del. Laws, c. 85, § 4A; 58 Del. Laws, c. 44, § 3; 60 Del. Laws, c. 609, § 2.)

## § 509. Place, time and manner of voting; judge of election.

The election shall be held in the offices of the county governing body in the county in which the suburban community is situated, and the polls shall be open from 9:00 a.m. to 6:00 p.m. of the day of the election. The voting shall be by printed ballot, which shall give the voter an opportunity clearly to indicate the voter's consent or objection to the issuance of bonds for the improvements contemplated. Absentee ballots may be permitted and managed in such a manner as prescribed by the county government. The clerk of the peace shall act as judge of the election.

(45 Del. Laws, c. 123, § 9; 9 Del. C. 1953, § 509; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 355, § 2.)

## § 510. Persons entitled to vote.

(a) Every citizen who resides in the community in which the election is being held and who would be entitled at the time of the holding of such election to register and vote in any election district of which the community is a part at a general election if such general election were held on the day of such election in the community, and every owner of real property in the community, may vote at such election, whether or not that owner is at the time a registered voter.

(b) Any real property owner who has sold his or her property or properties in the community subsequent to the preparation of the survey and plot made by the Department of Transportation shall not be permitted to vote but the then-owner of the property or properties shall be entitled to vote in the former property owner's place and stead upon furnishing the judge of election with the original or a certified copy of the deed to the property or properties, which deed shall clearly evidence that it was duly recorded.

(c) Any person claiming the right to vote at the election as an heir of any real property owner in the community who has died, or as trustee or guardian under the terms of the last will and testament of any such real property owner shall furnish the judge of election with the original or a certified copy of the will or other document evidencing that person's ownership of, or interest in, the property of any such real property owner, and shall thereupon be entitled to vote in the place and stead of such deceased real property owner.

(d) Wherever the property of such deceased real property owner in the suburban community is left to joint tenants or tenants in common, the following rules shall prevail:

(1) The vote of any 1 joint tenant or tenant in common shall be received where no other such tenant appears claiming the right to vote;

(2) Where 1 joint tenant or tenant in common votes in opposition to another, the vote shall be cancelled;

(3) A majority of the votes of any such joint tenants or tenants in common shall determine the manner in which the vote shall be cast;

(4) The vote of any life tenant shall be accepted over the person having a reversionary interest in the property in the suburban community.

(45 Del. Laws, c. 123, § 9; 9 Del. C. 1953, § 510; 58 Del. Laws, c. 44, §§ 4-7; 60 Del. Laws, c. 503, § 22; 70 Del. Laws, c. 186, § 1.)

## § 511. Certification of result of election; retention of ballots.

Promptly after the holding of the election, the judge of election shall tabulate the ballots and certify the results to the county government under the judge's hand and seal. The ballots shall be retained in the safekeeping of the county government for 1 year before being destroyed.

(45 Del. Laws, c. 123, § 10; 9 Del. C. 1953, § 511; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 512. Notification to Director if bond issue authorized.

If the certificate of the judge of election reveals that a majority of the votes cast at the election is in favor of the issuance of bonds by the county government to cover the cost of the improvement or improvements contemplated, the county government shall promptly notify, in writing, the Director of the Division of Highways of the Department of Transportation.

(45 Del. Laws, c. 123, § 11; 9 Del. C. 1953, § 512; 53 Del. Laws, c. 255; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 503, § 22.)

## § 513. Bonds; issuance by county government; resolution authorizing issuance and fixing terms of; use of general and other funds to finance construction.

(a) If the vote of the community is in the affirmative, the county government shall promptly meet and by resolution authorize the issuance of bonds, except as hereinafter specifically provided, to defray the expenses of the improvement or improvements favored by the

freeholders of the community. The resolution shall not be adopted until after contract bids have been received and thereby the contract cost definitely determined. The amount of the bond issue shall be determined by taking the cost of the preliminary engineering and construction inspection costs up to 10 percent of the contract bid and adding the total to the actual contract bid. The resolution shall state the purpose of the bond issue, the date of maturity, or that the bonds shall mature serially or be retired by lot, as the case may be, and all other terms and conditions under which the bonds are to be issued.

(b) The county government, before deciding upon the terms and conditions of the bond issue, shall seek the advice of at least 2 substantial bankers or brokers in Delaware who are accustomed to dealing in municipal, county or state bond issues.

(c) If the contract bid or bids, hereinabove provided, after making provision for 10 percent over and above contract bid or bids, is or are less than $20,000, the county government may use moneys in its own general fund to defray costs of construction. Notwithstanding the provisions of § 532 of this title, the county government may also use excess moneys from previous bond issues to finance contract costs in whole or in part for projects in other suburban communities.

(45 Del. Laws, c. 123, § 12; 46 Del. Laws, c. 292, § 4; 48 Del. Laws, c. 94, § 1; 9 Del. C. 1953, § 513; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 609, § 3.)

## § 514. Preparation, form and execution of bonds.

The county government shall direct and effect the preparation and printing of the bonds authorized by this subchapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued. The face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as shall be designated by the county government. The bonds shall be signed in the manner prescribed by the county government.

(45 Del. Laws, c. 123, § 13; 9 Del. c. 1953, § 514; 55 Del. Laws, c. 85, § 4A; 63 Del. Laws, c. 142, § 8; 64 Del. Laws, c. 318, § 2.)

## § 515. Sale of bonds; proceeds of sale; advertising required.

(a) The county government shall negotiate the sale and delivery of the bonds. The proceeds of the sale of the bonds shall be paid into the treasury of the county government to be used for the purposes provided in this subchapter; provided, however, that any excess received from the sale of the bonds beyond the cost of the project shall immediately be transferred to the special sinking fund required by § 532 of this title after payment to the Division of Highways for preliminary engineering and construction inspection costs.

(b) The county government shall advertise the bonds for sale in at least 2 issues each of 2 newspapers, 1 of which shall be published in a newspaper of general circulation in the City of Wilmington, Delaware, and 1 of which shall be published in the City of New York, inviting bids for the same, which advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening the bids, and the conditions under which the bonds are to be sold. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(45 Del. Laws, c. 123, § 14; 46 Del. Laws, c. 292, § 5; 9 Del. C. 1953, § 515; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 609, § 4.)

## § 516. Requirements for bidding on bonds.

The county government may require that each bid for the bonds be accompanied by a certified check in the amount of 10 percent of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(45 Del. Laws, c. 123, § 5; 46 Del. Laws, c. 292, § 10; 9 Del. C. 1953, § 516; 55 Del. Laws, c. 85, § 4A.)

## § 517. Rejection and acceptance of bids; opinion required.

(a) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the person, persons, firm or corporation which, in the judgment of the county government offers the most advantageous terms.

(b) The bonds shall not be offered for sale until the attorney for the county government has submitted that attorney's opinion in writing that the bonds have been validly authorized in accordance with the provisions of this subchapter.

(45 Del. Laws, c. 123, § 16; 9 Del. C. 1953, § 517; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 518. Rights-of-way; acquisition of; limitations on.

(a) In the event that street rights-of-way are inadequate or where street rights-of-way are in question, the Division of Highways of the State Department of Transportation may acquire the rights-of-way necessary for the suburban community construction project. In every respect, the acquisition of such necessary street rights-of-way shall follow the then current practice of the Division of Highways of the State Department of Transportation in acquiring rights-of-way for contracts.

(b) In the event of notification by the county government pursuant to § 506 of this title, the Division shall determine whether the streets in question have been laid out or dedicated prior to January 1, 1971. The Division shall not require the right-of-way for streets laid out

or dedicated prior to January 1, 1971, to be greater than 30 feet in width, unless a greater width has been set aside or dedicated in the original plan or map of such community.

(45 Del. Laws, c. 123, § 33; 48 Del. Laws, c. 94, § 4; 9 Del. C. 1953, § 518; 59 Del. Laws, c. 215, § 2; 60 Del. Laws, c. 503, § 22.)

## § 519. Contracts for improvements; procedure for awarding.

(a) The county government shall award a contract or contracts for the required improvements upon a competitive basis pursuant to public advertisement of the intention of the county government to receive sealed proposals for the work on the improvements. In every respect, the letting of the contracts shall follow the practice of the Department of Transportation in letting the Department contracts.

(b) Upon the opening of the sealed proposals, the county government, after consultation with the Department, shall award the contract or contracts. No contract shall be awarded to any other than the lowest bidder except with the unanimous approval of the members of the county government and the recommendation of the Department of Transportation, and if a contract should be awarded to a person other than the lowest bidder, the county government shall state in its minutes the reason or reasons for doing so.

(c) As a condition of the letting of the contracts, the county government shall require the successful bidder or bidders to enter into a bond for the faithful performance of such contract.

(d) The county government shall have the power to reject all bids.

(45 Del. Laws, c. 123, §§ 17, 18; 48 Del. Laws, c. 94, § 2; 9 Del. C. 1953, § 519; 53 Del. Laws, c. 255; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 503, § 22.)

## § 520. Exemption from limitations of county contract laws.

Contracts entered into by the county government under the provisions of this subchapter shall in all cases be exempt from monetary limitations now set forth in county government contract laws.

(45 Del. Laws, c. 123, § 32; 48 Del. Laws, c. 94, § 3; 9 Del. C. 1953, § 520; 55 Del. Laws, c. 85, § 4A.)

## § 521. Supervision of work.

After the awarding of the contract or contracts, all work performed under the contract or contracts shall be under the direct supervision and direction of the Director of Operations of the Department of Transportation, which Department shall be reimbursed at the rate of 10 percent of the contract bid.

(45 Del. Laws, c. 123, § 18; 9 Del. C. 1953, § 521; 53 Del. Laws, c. 255; 60 Del. Laws, c. 503, § 22; 60 Del. Laws, c. 609, § 5.)

## § 522. Payment to contractor.

The county government shall withhold 10 percent of all payments made under the terms of the contracts until final certification by the Department of Transportation that the work has been satisfactorily completed, in compliance with the terms of the contract.

(45 Del. Laws, c. 123, § 19; 9 Del. C. 1953, § 522; 53 Del. Laws, c. 255; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 503, § 22.)

## § 523. Maintenance of improvements.

(a) Upon the certification by the Department of Transportation that the improvement or improvements have been satisfactorily completed, the improvement or improvements shall be incorporated into the state highway system, and the Department shall be responsible for the maintenance of the improvement or improvements, to include the replacement of street signs on any portion thereof when deemed necessary.

(b) All roads and streets constructed pursuant to this chapter, not dedicated for public use and intended to be private, as indicated on the filing plan, shall be constructed in accordance with rules and regulations adopted by the county in which such road or street is located. Such rules and regulations for construction of private subdivision streets and roads shall, in addition to specifying standards for the design and construction thereof, require that, simultaneous with the construction of such streets and roads, a means or mechanism be provided to insure the perpetual maintenance of such private streets and roads, but in no event shall the State or county be responsible for such maintenance.

(45 Del. Laws, c. 123, § 19; 9 Del. C. 1953, § 523; 53 Del. Laws, c. 255; 59 Del. Laws, c. 180, § 4; 60 Del. Laws, c. 503, § 22; 64 Del. Laws, c. 357, § 2.)

## § 524. Assessment on real property in suburban community; time for making and basis.

(a) Not later than 30 days after the date of receipt by the county government of the final contract costs from the Department of Transportation, but in no event later than 8 months after the sale of the bond issue, the county government shall make a special assessment or levy upon all real property of every freeholder in the suburban community which is assessable and taxable. Such assessment shall be made in such a manner that the real property of each freeholder of the community, upon the basis of all front footage and in the case of corner properties all front footage and 50 percent of the side footage abutting upon the improvement or improvements, shall equitably bear its pro rata share of the costs of the improvement or improvements. In cases of irregular corner properties the Department shall determine the footage abutting the improvement or improvements that is to be considered as front and side footage. The provisions of

this section and other sections in this subchapter relating to side footage shall cover all such projects on which construction is undertaken after January 1, 1949, but shall not cover projects previously constructed. The sum total of all assessments or levies so made shall equal the total amount of the final contract cost, together with all interest accruing on the full amount of the bond issue until maturity and costs incurred by the Division of Highways for preliminary engineering and construction inspection as set forth elsewhere in this subchapter.

(b) In the event that final contract costs are not determined within the aforementioned 8-month period, the county government shall make a temporary special assessment or levy upon the basis of the contract bid, together with all interest accruing on the full amount of the bond issue until maturity. The temporary special assessment shall be adjusted when final contract costs are known.

(c) If moneys from the general fund of the county government are used as permitted by § 513(c) of this title, the special assessment shall be determined on the basis of final contract costs plus interest. The interest rate in such case shall be the average rate of all interest on bonds issued for similar purposes during the previous calendar year. All interest collected from such special assessments shall be deposited in the special sinking fund account provided for in § 532 of this title.

(d) In making such special assessment or levy the county government shall prepare an assessment roll which shall describe each lot or parcel of real property in the suburban community in such manner that the same may be ascertained and identified and shall show the name or names of the reputed owner or owners thereof and the aggregate amount of the assessment levied upon such lot or parcel of land, and shall file such assessment roll so prepared in the office of the clerk of the peace. Before finally adopting such assessment roll, the county government shall hold a public hearing. Notice of such public hearing shall state that the assessment roll has been completed and filed in the office of the clerk of the peace where it may be examined by any person interested and that at the time and place fixed for the public hearing, the county government will meet and hear and consider any objections which may be made to such assessment roll. Notice of the public hearing shall be published in a newspaper published within the county and having a general circulation therein, once in each of the 2 weeks immediately preceding the week in which the public hearing is to be held. After holding the public hearing the county government may change or amend the assessment roll as it deems necessary or just and may confirm and adopt the assessment roll as originally proposed or as amended or changed.

(45 Del. Laws, c. 123, § 20; 46 Del. Laws, c. 292, § 6; 47 Del. Laws, c. 331, § 4; 9 Del. C. 1953, § 524; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 503, § 22; 60 Del. Laws, c. 609, § 6.)

## § 525. Determination of portion of total assessment payable annually; special lien; payment.

(a) After the county government has determined the total amount of the special assessment to be levied, it shall promptly seek the advice of at least 2 responsible brokers or bankers in this State accustomed to dealing in municipal, school or county bond issues as to what proportion of his or her total assessment or levy shall be paid annually by each freeholder in the suburban community until the maturity of the bond issue, bearing in mind the terms and conditions of the particular issue, and whether all the bonds mature on the same day or are to be retired serially or by lot, as the case may be.

(b) Having determined upon such proportionate annual amount of payment as will adequately insure the payment of the principal and interest upon the bonds, the county government shall meet, and, by resolution, declare the amount of the assessment or levy against the property of each freeholder a lien and fix the proportionate amount of the assessment or levy against each such property or properties to be paid annually by each freeholder.

(c) Any freeholder may at any time pay to the receiver of taxes and county treasurer of the county in which the suburban community is located, the full principal amount of the special lien placed against the freeholder's property or properties together with accrued interest thereon to the next succeeding interest date.

(45 Del. Laws, c. 123, § 21; 9 Del. C. 1953, § 525; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 526. Lien book; preparation and distribution.

(a) Within 30 days after the passage of the resolution mentioned in § 525 of this title, the county government shall prepare books, in triplicate, containing the following information:

(1) The name of each freeholder in the suburban community;

(2) The amount of foot frontage of each freeholder abutting on the improvement or improvements so contemplated;

(3) The total amount, in dollars, of the special assessment or levy against the property of each freeholder; and

(4) The proportionate annual amount of payment in dollars, of the special assessment or levy.

(b) The books shall be entitled "Suburban Community Lien Book," specifying the name of the suburban community.

(c) One of the books shall be retained by the county government, 1 shall be placed in the office of the prothonotary of the county in which the suburban community is situated, and another shall be placed in the office of the receiver of taxes and county treasurer in the county.

(45 Del. Laws, c. 123, § 22; 46 Del. Laws, c. 292, § 7; 9 Del. C. 1953, § 526; 55 Del. Laws, c. 85, § 4A.)

## § 527. Notice of assessment; when to be given; contents; interest on delinquent installments.

(a) Within 20 days after the completion of the triplicate books mentioned in § 526 of this title, the receiver of taxes and county treasurer shall send, by registered mail directed to each freeholder in the suburban community, a notice which shall contain the total amount in

dollars of the special assessment or levy against the freeholder and the proportionate annual amount of the payment in dollars which the freeholder will be required to make until the maturity of the bond issue.

(b) The notice shall also specify that the total amount of such special assessment or levy constitutes a lien upon the property or properties of the freeholder, which lien, unless sooner paid, shall attach against the property of the freeholder until the maturity of the bond issue.

(c) The notice shall further state that if any freeholder in the suburban community does not pay to the receiver of taxes and county treasurer of the county in which the suburban community is situated the proportionate annual amount of the freeholder's special assessment or levy within 60 days from the date of the mailing of the notice, interest at 6 percent per annum will be charged upon the proportionate annual amount of the special assessment or levy beginning 60 days after mailing of the notice and continuing until the assessment is fully paid.

(45 Del. Laws, c. 123, § 23; 46 Del. Laws, c. 292, §§ 8, 9; 9 Del. C. 1953, § 527; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 528. Record of lien on books of board of assessment.

The county government shall direct the board of assessment for the county in which the suburban community is situated to cause the words "Special Community Lien" to be placed beside the name of each freeholder in the suburban community as the same appears on the books of the board of assessment for the county in order that persons such as prospective buyers of, or attorneys making title searches upon, the properties making inquiry at the office of the board of assessment in such county concerning county taxes may be informed that special liens exist against the properties in the suburban community.

(45 Del. Laws, c. 123, § 24; 9 Del. C. 1953, § 528; 55 Del. Laws, c. 85, § 4A.)

## § 529. Receipt and disposition of assessment payments; bond.

(a) The receiver of taxes and county treasurer for the county in which the suburban community is situated shall receive payment of the proportionate annual amount of the special assessment or levy, and shall turn over to the county government all such moneys when received. The county government shall confer with the receiver of taxes and county treasurer and determine upon a satisfactory method for the setting up of books of account to be kept by the receiver of taxes and county treasurer concerning his or her collections of the proportionate annual amounts of the special assessment or levy.

(b) The county government may require the receiver of taxes and county treasurer to enter into a bond conditioned upon the faithful performance of his or her duties in the making of the collections of the special assessments or levies.

(45 Del. Laws, c. 123, § 25; 9 Del. C. 1953, § 529; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 530. Bill for annual installment of assessment; mailing.

The receiver of taxes and county treasurer shall annually, on the date of the sending of the written notice prescribed by § 527 of this title, mail to each freeholder in the suburban community a bill for the proportionate annual amount of the special assessment or levy.

(45 Del. Laws, c. 123, § 26; 9 Del. C. 1953, § 530.)

## § 531. Collection of assessments in default; procedure; deficiencies.

(a) If a freeholder in the suburban community fails to pay the full amount of the freeholder's proportionate annual amount of the special assessment or levy within 1 year from the time within which it becomes payable, together with interest at 6 percent thereon, the entire amount of the special assessment or levy shall immediately become due and payable, and the receiver of taxes and county treasurer shall proceed to collect the full amount of the special assessment or levy by any legal process available to him or her by statute for the collection of state, county or school taxes.

(b) If any property encumbered by the special lien provided for in this section is sold by foreclosure or execution process and the proceeds from such sale are insufficient to pay in full the amount of the special lien together with all interest and penalties thereon, then the unpaid portion of the special lien shall not be discharged by virtue of the sale.

(45 Del. Laws, c. 123, § 27; 9 Del. C. 1953, § 531; 70 Del. Laws, c. 186, § 1.)

## § 532. Special sinking fund.

The county government shall promptly deposit all funds received from the receiver of taxes and county treasurer from the collection of the special assessment or levy in a special sinking fund account, which shall be used for no other purpose than the retiring of the bonds and interest accruing thereon, after payment has been made to the Division of Highways for costs incurred as set forth elsewhere in this subchapter.

(45 Del. Laws, c. 123, § 28; 9 Del. C. 1953, § 532; 55 Del. Laws, c. 85, § 4A; 60 Del. Laws, c. 609, § 7.)

## § 533. Payment and retirement of bonds and interest.

Prior to the time of the retirement of the bonds, or any of them, or the time when interest shall become payable thereon, the county government shall make available sufficient funds to cover the retirement of such bonds or the payment of interest thereon.

(45 Del. Laws, c. 123, § 30; 9 Del. C. 1953, § 533; 55 Del. Laws, c. 85, § 4A; 63 Del. Laws, c. 142, § 9.)

### § 534. Cancellation of bonds.

The county government may adopt such procedure as it deems proper in cancelling the bonds when paid.

(45 Del. Laws, c. 123, § 29; 9 Del. C. 1953, § 534; 55 Del. Laws, c. 85, § 4A.)

### § 535. Suburban community streets and roads.

All roads and streets situated in unincorporated suburban communities throughout the State shall henceforth be constructed or reconstructed in accordance with the requirements of Title 17 and any rules, regulations or standards adopted pursuant thereto, except as otherwise provided in this chapter.

(63 Del. Laws, c. 130, § 2; 64 Del. Laws, c. 357, § 3.)

## Subchapter II

## Fire Hydrants and Water Mains

### § 551. Definitions.

As used in this subchapter:

(1) “Clerk of the peace” means the clerk of the peace of the county in which the suburban community is situated.

(2) “County government” means the county governing body;

(3) “Suburban community” means any unincorporated community within this State:

a. Containing at least 10 dwelling houses;

b. Whose streets aggregate a minimum of 500 linear feet of road surfacing; and

c. Which, in the opinion of the county government, is so situated as to form a unit which is reasonably and economically capable of being improved by the installation of fire hydrants and, if necessary, adequate water mains to serve such hydrants;

(48 Del. Laws, c. 331, § 2; 9 Del. C. 1953, § 551; 55 Del. Laws, c. 85, § 4A.)

### § 552. Bonds; power of county government to issue; terms of; faith and credit of county pledged to payment of bonds.

(a) In order to carry out the provisions of this subchapter, the county government of any county of this State may issue bonds in an amount or amounts, and under such terms and conditions, not inconsistent with this subchapter, as may be determined by the county government.

(b) The bonds shall mature not later than 20 years after the date of the issue, shall bear interest at the most advantageous rate attainable by the county government and the income therefrom shall not be subject to state taxation. The bonds shall be issued in the form prescribed by the county government and shall be either registered bonds or bearer with coupons convertible into fully registered bonds. The bonds may, at the discretion of the county government, be made redeemable at par plus accrued interest on any interest payment date upon terms and conditions to be stated in the bonds. Debt incurred by the county government pursuant to this subchapter may be represented by uncertificated obligations of the county government which may be authorized in accordance with the same procedures applicable to bonds which are permitted to be issued under this subchapter, and the county government may determine all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(c) The full faith and credit of the county is pledged to insure the payment of any bond issue, and all interest thereon, created and sold under this subchapter.

(d) The county government may raise by the levy of taxes upon all the property taxable by the county such moneys, in addition to available moneys held in the sinking fund provided for in § 578 of this title, as are needed to pay the bonds and the interest thereon as the same become due and payable.

(48 Del. Laws, c. 331, §§ 1, 29; 9 Del. C. 1953, § 552; 49 Del. Laws, c. 356, § 2; 55 Del. Laws, c. 85, § 4A; 63 Del. Laws, c. 142, § 10; 64 Del. Laws, c. 318, § 3.)

### § 553. Petition to county government for improvements; who may petition; contents.

(a) The freeholders of a suburban community owning 50 percent or more of the front footage of property to be protected by the contemplated installation of fire hydrants and necessary water mains may present a petition to the county government.

(b) The petition shall:

(1) State that in the opinion of the signers of the petition, the suburban community would be improved by the installation of fire hydrants with adequate water mains; and

(2) Request that the county government proceed in accordance with the provisions of this subchapter to issue bonds to provide the money for the improvements.

(c) Each petition, when presented, shall have attached to it, as a part thereof, the following data:

(1) A drawing showing the street layout, placement of fire hydrants and water mains and boundaries of the area to be protected by the installation thereof;

(2) A list of the names and post-office addresses of all freeholders in the suburban community, as they appear on the records of the board of assessment of the county in which the suburban community is located, and the street frontage in feet owned by each of such freeholders;

(3) A proposal or suggested contract or contracts, including plans, specifications and estimates of cost of the contemplated improvements; and

(4) A provision for service charges, if any, to the residents of the suburban community as tentatively accepted, approved or agreed to by the petitioners and the owners or operators of the local water distribution system chosen to install the improvements or their agents.

(48 Del. Laws, c. 331, § 3; 9 Del. C. 1953, § 553; 55 Del. Laws, c. 85, § 4A.)

## § 554. Determination by county government after receipt of petition.

Within 15 days after receipt by the county government of the petition provided for in § 553 of this title, the county government shall meet and determine whether the community is a suburban community within the meaning of § 551 of this title.

(48 Del. Laws, c. 331, § 4; 9 Del. C. 1953, § 554; 55 Del. Laws, c. 85, § 4A.)

## § 555. Review and approval of data by county engineer.

Immediately after the determination by the county government that the community in question meets the requirements for a suburban community specified in § 551 of this title, the county government shall notify the county engineer of its determination. Upon receipt of such notice, the county engineer shall promptly review the plans and proposals submitted by the petitioners and the owner or operator of the local water distribution system chosen to install the improvements, and shall notify the county government of his or her approval or disapproval thereof.

(48 Del. Laws, c. 331, § 5; 9 Del. C. 1953, § 555; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 556. Election to authorize bond issue; fixing time for holding; voting list.

(a) Upon receipt of approval from the county engineer, as provided for in § 555 of this title, the county government shall fix a date for an election, at which all freeholders of the community may vote, on the question whether the county government should proceed to issue bonds in the manner hereinafter provided, in an amount sufficient to finance the cost of the improvements contemplated.

(b) The election shall be held not less than 20 days nor more than 30 days after receipt of the approval from the county engineer.

(c) The clerk of the peace shall prepare from the books and records of the board of assessment of the county in which the suburban community is situated, a list of the names and addresses of all freeholders of the suburban community. Opposite the name of each freeholder the clerk shall put the number of votes each such freeholder may cast, which shall be on the basis of 1 vote for each front foot of property owned by each freeholder to be protected by the contemplated improvement or improvements. In determining the number of votes to be cast by each freeholder as set forth above, the fractions of feet shall be disregarded. Such list, except as hereinafter provided, shall constitute the voting list for the election.

(48 Del. Laws, c. 331, § 6; 9 Del. C. 1953, § 556; 55 Del. Laws, c. 85, § 4A.)

## § 557. Notice of election; contents of notice.

Not less than 12 days prior to the date fixed for the election, the clerk of the peace shall cause to be mailed to each person on the voting list, at the address appearing on the list, a printed notice of the time and place of the election. The notice shall state that the purpose of the election is to determine whether a majority of the residents of the community is in favor of the issuance of bonds by the county government to cover the cost of the improvement or improvements contemplated. The notice shall also state the total amount of the proposed bond issue and a clear and concise description of the improvements contemplated together with the estimated cost of each improvement and the total cost of all improvements.

(48 Del. Laws, c. 331, § 7; 9 Del. C. 1953, § 557; 55 Del. Laws, c. 85, § 4A.)

## § 558. Place, time and manner of voting; judge of election.

The election shall be held in the county government room in the county in which the suburban community is situated, and the polls shall be open from 9:00 a.m. to 6:00 p.m. of the day of the election. The voting shall be by printed ballot, which shall give the voter an opportunity clearly to indicate that voter’s consent or objection to the issuance of bonds for the improvements contemplated. The clerk of the peace shall act as judge of the election.

(48 Del. Laws, c. 331, § 8; 9 Del. C. 1953, § 558; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 559. Persons qualified to vote.

(a) The voting list theretofore prepared by the clerk of the peace shall be evidence of the right of a person to vote and the number of votes to which each freeholder is entitled, except as hereinafter provided.

(b) Any freeholder who has sold his or her property or properties in the community prior to the date of the election shall not be permitted to vote but the then-owner of the property or properties shall be entitled to vote in his or her place and stead upon furnishing the judge of election with the original or a certified copy of the deed to the property or properties, which deed shall clearly evidence that it was duly recorded.

(c) Any person claiming the right to vote at the election as an heir of any freeholder in the community who has died since the preparation of the voting list, or as trustee or guardian under the terms of the last will and testament of any such freeholder (who has died in the community since the preparation of the voting list) shall furnish the judge of election with the original or a certified copy of the will or other document evidencing that person's ownership of, or interest in, the property of any such freeholder, and shall thereupon be entitled to vote in the place and stead of such deceased freeholder.

(d) Wherever the property of such deceased freeholder in the suburban community is left to joint tenants or tenants in common, the following rules shall prevail:

(1) The vote of any 1 joint tenant or tenant in common shall be received where no other such tenant appears claiming the right to vote;

(2) Where 1 joint tenant or tenant in common votes in opposition to another, the vote shall be cancelled;

(3) A majority of the votes of any such joint tenants or tenants in common shall determine the manner in which the vote shall be cast;

(4) The vote of any life tenants shall be accepted over the person having a reversionary interest in the property in the suburban community.

(48 Del. Laws, c. 331; 9 Del. C. 1953, § 559; 70 Del. Laws, c. 186, § 1.)

## § 560. Certification of result of election; retention of ballots.

Promptly after the holding of the election, the judge of election shall tabulate the ballots and certify the results to the county government under the judge's hand and seal. The ballots shall be retained in the safekeeping of the county government for 1 year before being destroyed.

(48 Del. Laws, c. 331, § 9; 9 Del. C. 1953, § 560; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 561. Notification to county engineer if bond issue authorized.

If the certificate of the judge of election reveals that a majority of the votes cast at the election is in favor of the issuance of bonds by the county government to cover the cost of the improvement or improvements contemplated, the county government shall promptly so notify, in writing, the county engineer.

(48 Del. Laws, c. 331, § 10; 9 Del. C. 1953, § 561; 55 Del. Laws, c. 85, § 4A.)

## § 562. Bonds; issuance of by county government; resolution authorizing issuance and fixing terms of; use of general funds in lieu of issuing bonds.

(a) If the vote of the community is in the affirmative, the county government shall promptly meet and by resolution authorize the issuance of bonds, except as hereinafter specifically provided, to defray the expenses of the improvement or improvements favored by the freeholders of the community. The resolution shall also state:

(1) The total amount of the bond issue (which shall be determined from an estimate submitted to the county government by the county engineer and the amount of the bond issue may be in the amount of the county engineer's estimate and up to 10 percent thereover);

(2) The purpose of the bond issue;

(3) The date of maturity, or that the bonds shall mature serially or be retired by lot, as the case may be; and

(4) All other terms and conditions under which the bonds are to be issued.

(b) The county government, before deciding upon the terms and conditions of the bond issue, shall seek the advice of at least 2 substantial bankers or brokers in Delaware accustomed to dealing in municipal, county or state bond issues.

(c) If the estimate or estimates from the county engineer, as hereinabove provided, after making provision for 10 percent over and above estimated costs, is or are less than $20,000, the county government may use moneys in its own general fund to defray costs of the improvements.

(48 Del. Laws, c. 331, § 11; 9 Del. C. 1953, § 562; 55 Del. Laws, c. 85, § 4A.)

## § 563. Preparation, form and execution of bonds.

The county government shall direct and effect the preparation and printing of the bonds authorized by this subchapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued. The face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as shall be designated by the county government. The bonds shall be signed in the manner prescribed by the county government.

(48 Del. Laws, c. 331, § 12; 9 Del. C. 1953, § 563; 55 Del. Laws, c. 85, § 4A; 63 Del. Laws, c. 142, § 11; 64 Del. Laws, c. 318, § 4.)

## § 564. Sale of bonds; proceeds of sale; advertising required.

(a) The county government shall negotiate the sale and delivery of the bonds. The proceeds of the sale of the bonds shall be paid into the treasury of the county government to be used for the purposes provided in this subchapter; provided, however, any excess received from the sale of the bonds beyond the cost of the project shall immediately be transferred to the special sinking fund required by § 578 of this title.

(b) The county government shall advertise the bonds for sale in at least 2 issues each of 2 newspapers, 1 of which shall be published in a newspaper of general circulation in the City of Wilmington, Delaware, and 1 of which shall be published in the City of New York, inviting bids for the same, which advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening the bids, and the conditions under which the bonds are to be sold. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(48 Del. Laws, c. 331, § 13; 9 Del. C. 1953, § 564; 55 Del. Laws, c. 85, § 4A.)

## § 565. Requirements for bidding on bonds.

The county government may require that each bid for the bonds be accompanied by a certified check in the amount of 10 percent of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(48 Del. Laws, c. 331, § 14; 9 Del. C. 1953, § 565; 55 Del. Laws, c. 85, § 4A.)

## § 566. Rejection and acceptance of bids; opinion required.

(a) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the person, persons, firm or corporation which, in the judgment of the county government, offers the most advantageous terms.

(b) The bonds shall not be offered for sale until the attorney for the county government has submitted the attorney's opinion in writing that the bonds have been validly authorized in accordance with the provisions of this subchapter.

(48 Del. Laws, c. 331, § 15; 9 Del. C. 1953, § 566; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 567. Contracts for improvements; procedure for awarding; terms.

Immediately upon consummation of the sale of the bond issue, the county government shall proceed to enter into a contract or contracts for the required improvements with the owner or operator of the local water distribution system chosen to install the improvements or the owner's or operator's agents. Such contract or contracts shall contain the provisions required by § 569 of this title and shall be substantially in accordance with the proposal or suggested contracts originally submitted by the petitioners in accordance with § 553 of this title. The contract or contracts need not be let upon a competitive bid basis. The county government may, in its discretion, request a statement of financial condition, or such other evidence of financial responsibility as it shall deem appropriate, from the owner or operator of said local water distribution system or the owner's or operator's agents.

(48 Del. Laws, c. 331, § 16; 9 Del. C. 1953, § 567; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 568. Payment to contractor.

The county government shall withhold 10 percent of all payments made under the terms of the contracts until final certification by the county engineer that the work has been satisfactorily completed, in compliance with the terms of the contract.

(48 Del. Laws, c. 331, § 17; 9 Del. C. 1953, § 568; 55 Del. Laws, c. 85, § 4A.)

## § 569. Improvements incorporated into contractor's system; responsibility for maintenance; inspections of fire hydrants and connecting water mains; testing of fire-fighting equipment.

(a) Upon the certification by the county engineer that the improvement or improvements have been satisfactorily completed, the improvement or improvements shall be incorporated into the water system serving the community, in accordance with the terms of the contract or contracts which shall also provide that the owner or operator of the water system shall be responsible for the operation and maintenance of the improvement or improvements and that the county government shall in no way be responsible for the operation or maintenance of the improvement or improvements. The improvement or improvements shall, however, remain the property of the county and, except as otherwise provided in such contract or contracts, shall be subject to the control of the county government.

(b) Any duly organized fire company, including volunteer fire companies, may inspect and test all fire hydrants and all water mains serving such hydrants located within the area that such company already operates and shall report its findings to the State Fire Marshal, the owners or operators of the water distribution systems serving such fire hydrants and water mains and to the municipality or local government having jurisdiction over such water system. In addition thereto, a fire company shall be permitted to utilize fire hydrants designated in advance by the owners or operators of a water distribution system and within the area that such company operates for testing fire-fighting equipment. At least 24 hours prior to any inspection or test or testing of fire-fighting equipment, the water distribution system and the municipality or local government having jurisdiction over such water system shall be notified. At the request of the owners or

operators and for good cause shown, the State Fire Marshal may postpone an inspection or test or testing of fire-fighting equipment for not more than 10 days.

(48 Del. Laws, c. 331, § 17; 9 Del. C. 1953, § 569; 55 Del. Laws, c. 85, § 4A; 62 Del. Laws, c. 256, § 1.)

## § 570. Assessment on real property in suburban community; time for making and basis.

(a) Not later than 30 days after the date of receipt by the county government of the final contract costs from the county engineer, but in no event later than 8 months after the sale of the bond issue, the county government shall make a special assessment or levy upon all real property of every freeholder in the suburban community which is assessable and taxable. Such assessment shall be made in such a manner that the real property of each freeholder of the community, upon the basis of all front footage within the area to be protected by the improvements, shall equitably bear its pro rata share of the costs of the improvement or improvements. In cases of irregular corner properties, the county engineer shall determine the footage in the area to be protected that shall be considered as front footage. The sum total of all assessments or levies, so made, shall equal the total amount of the final contract cost, together with all interest accruing on the full amount of the bond issue until maturity.

(b) If final contract costs are not determined within the aforementioned 8 month period, the county government shall make a temporary special assessment or levy upon the basis of the contract bid, together with all interest accruing on the full amount of the bond issue until maturity. The temporary special assessment shall be adjusted when final contract costs are known.

(c) If moneys from the general fund of the county government are used as permitted by § 562(c) of this title, the special assessment shall be determined on the basis of final contract costs plus interest. The interest rate in such case shall be the average rate of all interest on bonds issued for similar purposes during the previous calendar year. All interest collected from such special assessments shall be deposited in the special sinking fund account provided for in § 578 of this title.

(d) In making such special assessment or levy the county government shall prepare an assessment roll which shall describe each lot or parcel of real property in the suburban community in such manner that the same may be ascertained and identified and shall show the name or names of the reputed owner or owners thereof and the aggregate amount of the assessment levied upon such lot or parcel of land, and shall file such assessment roll so prepared in the office of the clerk of the county government. Before finally adopting such assessment roll, the county government shall hold a public hearing. Notice of such public hearing shall state that the assessment roll has been completed and filed in the office of the clerk of the county government where it may be examined by any person interested and, that at the time and place fixed for the public hearing, the county government will meet and hear and consider any objections which may be made to such assessment roll. Notice of the public hearing shall be published in a newspaper published within the county and having a general circulation therein, once in each of the 2 weeks immediately preceding the week in which the public hearing is to be held. After holding the public hearing the county government may change or amend the assessment roll as it deems necessary or just and may confirm and adopt the assessment roll as originally proposed or as amended or changed.

(48 Del. Laws, c. 331, § 18; 9 Del. C. 1953, § 570; 55 Del. Laws, c. 85, § 4A.)

## § 571. Determination of portion of total assessment payable annually; special lien; payment.

(a) After the county government has determined the total amount of the special assessment to be levied, it shall promptly seek the advice of at least 2 responsible brokers or bankers in this State accustomed to dealing in municipal, school or county bond issues as to what proportion of his or her total assessment or levy shall be paid annually by each freeholder in the suburban community until the maturity of the bond issue, bearing in mind the terms and conditions of the particular issue, and whether all the bonds mature on the same day or are to be retired serially or by lot, as the case may be.

(b) Having determined upon such proportionate annual amount of payment as will adequately insure the payment of the principal and interest upon the bonds, the county government shall meet and, by resolution, declare the amount of the assessment or levy against the property of each freeholder a lien and fix the proportionate amount of the assessment or levy against each such property or properties to be paid annually by each freeholder.

(c) Any freeholder may at any time pay to the receiver of taxes and county treasurer of the county in which the suburban community is located, the full principal amount of the special lien placed against that freeholder's property or properties together with accrued interest thereon to the next succeeding interest date.

(48 Del. Laws, c. 331, § 19; 9 Del. C. 1953, § 571; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 572. Lien book; preparation and distribution.

(a) Within 30 days after the passage of the resolution referred to in § 571 of this title, the county government shall prepare books, in triplicate, containing the following information:

(1) The name of each freeholder in the suburban community;

(2) The amount of foot frontage of each freeholder abutting on the improvement or improvements so contemplated;

(3) The total amount, in dollars, of the special assessment or levy against the property of each freeholder; and

(4) The proportionate annual amount of payment, in dollars, of the special assessment or levy.

(b) The books shall be entitled "Suburban Community Lien Book," specifying the name of the suburban community.

(c) One of the books shall be retained by the county government, 1 shall be placed in the office of the prothonotary of the county in which the suburban community is situated, and another shall be placed in the office of the receiver of taxes and county treasurer in the county.

(48 Del. Laws, c. 331, § 20; 9 Del. C. 1953, § 572; 55 Del. Laws, c. 85, § 4A.)

## § 573. Notice of assessment; when to be given; contents; interest on delinquent installments.

(a) Within 20 days after the completion of the triplicate books mentioned in § 572 of this title, the receiver of taxes and county treasurer shall send, by registered mail directed to each freeholder in the suburban community, a notice which shall contain the total amount, in dollars, of the special assessment or levy against the freeholder and the proportionate annual amount of the payment, in dollars, which the freeholder will be required to make until the maturity of the bond issue.

(b) The notice shall also specify that the total amount of such special assessment or levy constitutes a lien upon the property or properties of the freeholder, which lien, unless sooner paid, shall attach against the property of the freeholder until the maturity of the bond issue.

(c) The notice shall further state that if any freeholder in the suburban community does not pay to the receiver of taxes and county treasurer of the county in which the suburban community is situated the proportionate annual amount of the freeholder's special assessment or levy within 60 days from the date of the mailing of the notice, interest at 6 percent per annum will be charged upon the proportionate annual amount of the special assessment or levy beginning 60 days after mailing of the notice and continuing until the assessment is fully paid.

(48 Del. Laws, c. 331, § 21; 9 Del. C. 1953, § 573; 70 Del. Laws, c. 186, § 1.)

## § 574. Record of lien on books of board of assessment.

The county government shall direct the board of assessment for the county in which the suburban community is situated to cause the words "Special Community Lien" to be placed beside the name of each freeholder in the suburban community as the same appears on the books of the board of assessment for the county in order that persons such as prospective buyers of, or attorneys making title searches upon, the properties making inquiry at the office of the board of assessment in such county concerning county taxes may be informed that special liens exist against the properties in the suburban community.

(48 Del. Laws, c. 331, § 22; 9 Del. C. 1953, § 574; 55 Del. Laws, c. 85, § 4A.)

## § 575. Receipt and disposition of assessments; bond.

(a) The receiver of taxes and county treasurer for the county in which the suburban community is situated shall receive payment of the proportionate annual amount of the special assessment or levy, and shall turn over to the county government all such moneys when received. The county government shall confer with the receiver of taxes and county treasurer and determine upon a satisfactory method for the setting up of books of account to be kept by the receiver of taxes and county treasurer concerning his or her collections of the proportionate annual amounts of the special assessment or levy.

(b) The county government may require the receiver of taxes and county treasurer to enter into a bond conditioned upon the faithful performance of his or her duties in the making of the collections of the special assessments or levies.

(48 Del. Laws, c. 331, § 23; 9 Del. C. 1953, § 575; 55 Del. Laws, c. 85, § 4A; 70 Del. Laws, c. 186, § 1.)

## § 576. Bill for annual installment of assessment; mailing.

The receiver of taxes and county treasurer shall annually, on the date of the sending of the written notice prescribed by § 573 of this title, mail to each freeholder in the suburban community a bill for the proportionate annual amount of the special assessment or levy.

(48 Del. Laws, c. 331, § 24; 9 Del. C. 1953, § 576.)

## § 577. Collection of assessments in default; procedure; deficiencies.

(a) If a freeholder in the suburban community fails to pay the full amount of the freeholder's proportionate annual amount of the special assessment or levy within 1 year from the time within which it becomes payable, together with interest at 6 percent thereon, the entire amount of the special assessment or levy shall immediately become due and payable, and the receiver of taxes and county treasurer shall proceed to collect the full amount of the special assessment or levy by any legal process available to the receiver of taxes and county treasurer by statute for the collection of state, county or school taxes.

(b) If any property encumbered by the special lien provided for in this section is sold by foreclosure or execution process and the proceeds from such sale are insufficient to pay in full the amount of the special lien together with all interest and penalties thereon, then the unpaid portion of the special lien shall not be discharged by virtue of the sale.

(48 Del. Laws, c. 331, § 25; 9 Del. C. 1953, § 577; 70 Del. Laws, c. 186, § 1.)

## § 578. Special sinking fund.

The county government shall promptly deposit all funds received from the receiver of taxes and county treasurer from the collection of the special assessment or levy in a special sinking fund account, which shall be used for no other purpose than the retiring of the bonds and interest accruing thereon.

(48 Del. Laws, c. 331, § 26; 9 Del. C. 1953, § 578; 55 Del. Laws, c. 85, § 4A.)

## § 579. Payment and retirement of bonds and interest.

Prior to the time of the retirement of the bonds, or any of them, or the time when interest shall become payable thereon, the county government shall make available sufficient funds in a state or national bank where the principal and interest are payable, to cover the retirement of such bonds or the payment of interest thereon.

(48 Del. Laws, c. 331, § 28; 9 Del. C. 1953, § 579; 55 Del. Laws, c. 85, § 4A; 63 Del. Laws, c. 142, § 12.)

## § 580. Cancellation of bonds.

The county government may adopt such procedure as it deems proper in cancelling the bonds when paid.

(48 Del. Laws, c. 331, § 27; 9 Del. C. 1953, § 580; 55 Del. Laws, c. 85, § 4A.)

# Part I
# Provisions Affecting All Counties
## Chapter 6
## Suburban Parks and Recreation
### Subchapter I
### General Provisions

### § 601. Purpose.

The purpose of this chapter is to provide a procedure whereby the people of various unincorporated communities may establish and maintain parks and other recreational facilities and pay for the same through county bonds, the interest on and principal of such bonds to be collected by taxation of the community benefited.

(9 Del. C. 1953, § 601; 49 Del. Laws, c. 112, § 1.)

### § 602. Definitions.

As used in this chapter:

(1) "Clerk of the county government" means the clerk of the peace of the county in which the suburban park community is situated.

(2) "Commission" means the county park and recreation commission.

(3) "County government" means the county governing body.

(4) "Legal voter" means every citizen resident in a proposed or existing suburban park community, who would be entitled at the time of holding an election hereunder to register and vote in any election district of which a proposed or existing suburban park community is a part at a general election, if such general election were to be held at the time of any election under this chapter whether or not he or she is at that time a registered voter.

(5) "Park or recreation area" means any area of real estate located within or reasonably near the suburban park community suitable for the promotion of the health and recreation of the residents of the suburban community.

(6) "Suburban park community" means any unincorporated community within the State:

a. Containing at least 50 dwellings, and

b. Which, in the opinion of the county government is so situated as to form a unit which is reasonably, equitably and economically capable of being improved by the addition of a park or recreation area located reasonably near such suburban park community.

(9 Del. C. 1953, § 602; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4A; 70 Del. Laws, c. 186, § 1.)

### § 603. Tax exemption of parks and recreation areas.

All land and property which shall be held, laid out and used for any park or recreation area or which shall be purchased or acquired for such use or purpose under the provisions of this chapter shall be forever free from state and county taxation so long as used for such purposes.

(9 Del. C. 1953, § 603; 49 Del. Laws, c. 112, § 1.)

### § 604. Application of chapter.

(a) This chapter shall apply only in Kent and Sussex Counties.

(b) Parks and recreational facilities in the unincorporated communities of New Castle County shall be under the supervision of the Department of Parks and Recreation as provided in Chapter 13 of this title.

(9 Del. C. 1953, § 604; 55 Del. Laws, c. 85, § 5.)

### Subchapter II
### County Park and Recreation Commissions

### § 610. Creation; membership; terms; qualifications; vacancy.

(a) The county government of any county may establish a permanent county park and recreation commission.

(b) The commission shall consist of 5 members all of whom shall be residents of the county for a period of 3 years immediately preceding their appointments and only 3 of whom shall be affiliated with the same political party. One member shall be recommended by the State Board of Education; 1 in New Castle County shall be a member of the New Castle County Regional Planning Commission; and the remainder shall be members-at-large. All appointments shall be made by the county governments of the respective counties.

(c) One member shall be appointed for a term of 1 year, 1 for 2 years, 1 for 3 years, 1 for 4 years, and 1 for 5 years. Thereafter the terms of each shall be 5 years.

(d) Vacancies occurring by other than expiration of term shall be filled in the same manner as original appointments. This commission shall be appointed within 10 days of the filing of the first petition under this chapter.

(9 Del. C. 1953, § 610; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 611. Organization; officers.

Within 10 days after the commission has been appointed the members thereof shall meet and elect a chair. The chair shall be elected by the vote of a majority of all the members and shall serve for a period of 1 year or until the chair's successor is elected.

(9 Del. C. 1953, § 611; 49 Del. Laws, c. 112, § 1; 70 Del. Laws, c. 186, § 1.)

### § 612. Powers and duties.

(a) The commission shall provide, maintain, develop and promote recreational areas, facilities and programs throughout the county in which it is situated for the areas forming suburban park communities.

(b) The commission may employ such experts, trained personnel, staff, and if and when 4 or more suburban park communities are established as hereinafter provided, a director of recreation, as the funds provided therefor may permit. It may also employ such supervisors and provide for such recreational promotion as the funds provided under § 654 of this title may permit.

(c) It may initiate, adopt and direct, or cause to be conducted, a comprehensive program of recreation in schools and parks or other lands and buildings either publicly or privately owned and it may buy, sell, acquire or make use of all equipment necessary for such a program as the funds provided therefor may permit. It shall generally supervise, plan and maintain a program of recreation.

(d) The commission may use parks, playgrounds or park areas or any other lands or buildings for recreational purposes.

(e) The commission shall use all expert advice and information available from the state, federal, or other officials, departments and agencies, and shall furnish other agencies, including incorporated communities in the county, the information available.

(9 Del. C. 1953, § 612; 49 Del. Laws, c. 112, § 1.)

### § 613. Compensation; expenses.

The members of the commission shall serve without compensation but shall be paid the necessary expenses incurred in the performance of their duties.

(9 Del. C. 1953, § 613; 49 Del. Laws, c. 112, § 1.)

### § 614. Rules and regulations.

Subject to the approval of the county government, the commission may adopt such rules and regulations for the administration of its park and recreation programs as it deems necessary and proper.

(9 Del. C. 1953, § 614; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 615. Office space.

The county government shall furnish suitable and appropriate office space for the commission.

(9 Del. C. 1953, § 615; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 616. Limitation upon authority.

No provision of this chapter shall be construed as intending to confer upon the county government or any park commission or commissioner established or appointed by said county government any power or authority to acquire by condemnation, or otherwise, or to exercise in any manner any power or authority over any lands owned by an incorporated city or town of this State, except pursuant to an agreement executed by the incorporated city or town owning said land and the county government prior to said acquisition.

(9 Del. C. 1953, § 616; 49 Del. Laws, c. 112, § 2; 54 Del. Laws, c. 95, § 1; 57 Del. Laws, c. 762, § 4B.)

## Subchapter III

## Formation of Suburban Park Community and Election

### § 625. Petition to county government; who may petition; contents.

Fifty percent of the freeholders resident in a proposed suburban park community consisting of less than 500 persons, or 250 freeholders resident in a proposed suburban park community consisting of 500 persons or more, may present a petition to the county government to submit the question of organizing a suburban park community to a vote of electors residing in that community.

(9 Del. C. 1953, § 625; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 165, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 626. Study of suburban park community plan by commission; hearings; notice; recommendations to county government.

(a) Promptly upon the filing of a prescribed petition, the county government shall adopt a resolution requesting the commission to make a study of the suburban park community and make its recommendations to the county government concerning the area to be included in the suburban park community and the boundaries and location of such park or recreation area.

(b) The commission shall upon receipt of a request from the county government, hold at least 1 public hearing on a proposed suburban park community plan. Notice of such hearing shall be published at least 15 days before the date of the hearing in a newspaper of general

circulation in the said community and be posted in not less than 4 conspicuous public places in the proposed suburban park community. The notice shall contain the time and place of hearing, and shall specify the place and times at which the proposed suburban park community plan showing the proposed park layout and the extent of the park and recreation area and the nature of the improvements to be made, may be examined. Such notice shall also contain a description of the boundaries of the proposed suburban park community. All interested persons, residents, voters, tax payers, property owners or other persons or corporations in any way affected by the granting of such petition shall be heard on any question with respect to the location of the boundaries of the suburban park community and the proposed suburban community park plan and whether all real property included in the proposed suburban park community will be benefited by the carrying out of such plan. For the purpose of any of its public hearings under this chapter, the commission shall have power to summon witnesses, administer oaths, and compel the giving of testimony. The recommendation of the commission shall be submitted to the county government within 60 days from passage of said resolution by the county government.

(c) The commission may upon its own motion and without having received a request from the county government, and without a petition having been filed, proceed to hold a public hearing as hereinabove provided and may submit to the county government the recommendation of the commission for establishment of a suburban park community and the making of improvements therein.

(9 Del. C. 1953, § 626; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 139, § 1; 50 Del. Laws, c. 567, § 1; 57 Del. Laws, c. 762, § 4B.)

## § 627. Determination of status by county government.

Within 15 days after receipt by the county government of the recommendations of the commission as hereinbefore provided, the county government shall meet and consider the evidence and testimony given at the hearing before the commission and the recommendation of such commission and determine whether a proposed community is a suburban park community as provided in § 602 of this title and whether said community should be improved by the addition of a park or recreation area, and determine what shall be the boundaries of the suburban park community and that it is in the public interest to establish such suburban park community and that all real property included within its boundaries will be benefited by the construction of the proposed park layout and the establishment of the proposed park or recreation area and the making of the improvements proposed to be made therein.

(9 Del. C. 1953, § 627; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

## § 628. Preparation of survey, plans, specifications and estimates.

Immediately after the determination by the county government that a community is a suburban park community, the county government shall notify the commission, which, upon receipt of such information, shall proceed to have prepared by the county engineer, surveys, plans, specifications and estimates of the cost of the park or recreation area, and of improvements requested by the petitioners, and shall determine the annual assessment required to pay principal, interest, supervision, and maintenance of the park or recreation area.

(9 Del. C. 1953, § 628; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 140, § 1; 57 Del. Laws, c. 762, § 4B.)

## § 629. Limitation on cost of park and improvements.

If the estimated cost of the park or recreation area and improvements submitted by the commission shall exceed 5 percent of the total assessed value of all real property and improvements in said suburban park community, as reflected by the books of the board of assessment for the county, then the county government shall not be authorized to proceed under this chapter.

(9 Del. C. 1953, § 629; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 567, § 2; 57 Del. Laws, c. 762, § 4B.)

## § 630. Election to approve suburban park community and authorize bond issue.

(a) Upon the submission by said commission to the county government of plans, specifications and estimates covering said park or recreation area and improvements, the county government shall proceed to set a date for an election at which all legal voters resident in the community may vote, on the question whether the county government should proceed to issue bonds in the manner hereinafter provided, in an amount sufficient to finance the cost for the acquisition of such park or recreation area and of the improvements contemplated. Said election shall be held no less than 20 days and no more than 30 days after the submission of said plans and specifications and estimates to the county government.

(b) For the purpose of determining whether the persons offering to vote at such election possess the necessary qualifications, the officers conducting such election shall inquire of every person offering to vote, the person's name, whether the person is a native born or naturalized citizen, the person's place of residence and the length of time of the person's residence in the proposed or existing suburban park community in which such election is being conducted, in the county in which such proposed or existing suburban park community is located and in the State.

(c) Every citizen who resides in the proposed suburban park community in which the election is being held and who would be entitled at the time of the holding of such election to register and vote in any election district of which the proposed suburban park community is a part, at a general election, if such general election were held on the day of such election in the proposed suburban park community, may vote at such election whether or not the citizen is at the time a registered voter.

(9 Del. C. 1953, § 630; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 567, §§ 3, 4; 57 Del. Laws, c. 762, § 4B; 70 Del. Laws, c. 186, § 1.)

### § 631. Notice of election.

Notice of the time and place of such election shall be published at least 15 days before the date of election in a newspaper of general circulation in the proposed suburban park community and be posted at not less than 4 conspicuous public places in the proposed suburban park community. The notice shall state that the purpose of the election is to determine whether a majority of the legal voters resident in said community is in favor of the issuance of bonds by the county government to cover the total cost for the acquisition of the park or recreation area and of the improvements contemplated. The notice shall contain a brief description of the proposed improvements and shall also state the maximum principal amount of such bonds, the maximum rate of interest to be borne by such bonds, and the amount of such bonds payable in each fiscal year, and shall set forth the aggregate amount required to be raised by tax in each fiscal year for the payment of the principal of such bonds and the interest thereon computed at such maximum rate.

(9 Del. C. 1953, § 631; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 567, § 5; 57 Del. Laws, c. 762, § 4B.)

### § 632. Place of holding election; times; manner of voting.

The election shall be held at such place in the proposed suburban park community as the county government shall designate and the polls shall be open from 9:00 a.m. to 7:30 p.m. of the day of the election. The voting shall be by printed ballot, which shall give the voter an opportunity clearly to indicate the voter's consent or objection to the issuance of bonds for the improvement contemplated. Such printed ballot shall state the maximum principal amount of such bonds, the maximum rate of interest to be borne by such bonds, and the amount of such bonds payable in each fiscal year, and shall set forth the aggregate amount required to be raised by tax in each fiscal year for the payment of the principal of such bonds and the interest thereon computed at such maximum rate. A majority of votes cast shall decide the matter. The clerk of the county government shall act as judge of the election.

(9 Del. C. 1953, § 632; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 567, § 6; 57 Del. Laws, c. 762, § 4B; 70 Del. Laws, c. 186, § 1.)

### § 633. Tabulating votes; certificate of result.

Promptly after the holding of the election, the judge of election shall tabulate the ballots and certify the results to the county government under his or her hand and seal. The ballots shall be retained in the safekeeping of the county government for 1 year before being destroyed.

(9 Del. C. 1953, § 633; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B; 70 Del. Laws, c. 186, § 1.)

### § 634. Formation of suburban park community by county government.

Upon approval by the election the county government shall immediately establish a suburban park community and notify the commission of such community.

(9 Del. C. 1953, § 634; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

## Subchapter IV

## County Bonds; Assessments and Costs

### § 650. Bonds; power of county government to issue; terms.

(a) The county government may issue bonds of the county to finance the cost of acquiring and constructing such recreational and park facilities. Said bonds shall bear interest at a rate which shall not exceed 5 percent per annum and the income therefrom shall not be subject to state taxation. Each issue of said bonds shall be payable within 30 years after date of the bonds of such issue. The reasonable expenses of issuing such bonds shall be deemed a part of the cost of acquisition and construction of such park and recreation facilities. The full faith and credit of the county shall be pledged to the payment of such bonds and the interest thereon.

(b) The county government shall advertise said bonds for sale in at least 2 issues each of 2 newspapers, 1 of which shall be of general circulation in the City of Wilmington, Delaware, and 1 of which shall be published in the City of New York, inviting bids for the same. The advertisements shall state the total amount of the proposed issue, the denominations of said bonds, the place of payment of said bonds and interest, the place and date of opening said bids, and the conditions under which said bonds are to be sold. Said county government may give notice of the sale of said bonds in such other manner as it may decide.

(c) The county government may require each bid for said bonds to be accompanied by a certified check in the amount of the bid, and after the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or check submitted with the bid or bids.

(d) The county government shall have the right to reject any and all bids, but in awarding the sale of said bonds, or any of them, they shall be sold to the person, persons, firm or corporation which, in the judgment of the county government, offers the most advantageous terms. Said bonds shall not be offered for sale until the attorney for the county government has submitted the attorney's opinion in writing that the bonds will, when duly sold, executed, delivered and paid for, be validly issued in accordance with the provisions of this chapter.

(e) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, fix the rate of interest, and shall prescribe the form of said bonds and the coupons for the payment of interest thereto attached. Said bonds shall state the conditions under which they are issued. The coupons and face amount thereof shall be payable at any state or national bank designated

by the county government. Said bonds shall be signed by the presiding officer of the county government, countersigned by the clerk of the peace, and sealed with the official seal of the county government.

(9 Del. C. 1953, § 650; 49 Del. Laws, c. 112, § 1; 49 Del. Laws, c. 357; 50 Del. Laws, c. 567, § 7; 57 Del. Laws, c. 762, § 4B; 63 Del. Laws, c. 142, § 13; 70 Del. Laws, c. 186, § 1.)

### § 651. Special sinking fund.

The county government shall promptly deposit all funds received from the receiver of taxes from the collection of the taxes levied pursuant to the provisions of § 654 of this title, in a special account, which shall be used for no other purpose than the retiring of the bonds and interest accruing thereon, and for maintaining and improving the parks or recreation areas of the suburban park community, and paying the necessary expenses of the suburban park community including all costs of supervision and recreational promotion.

(9 Del. C. 1953, § 651; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 652. Cancellation of bonds.

The county government may adopt such procedure as it deems proper in cancelling said bonds when paid.

(9 Del. C. 1953, § 652; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 653. Payment and retirement of bonds.

Prior to the time of the retirement of the bonds, or any of them, or the time when interest shall become payable thereon, the county government shall make available sufficient funds in a state or national bank where the principal and interest are payable, to cover the retirement of such bonds or the payment of interest thereon.

(9 Del. C. 1953, § 653; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B; 63 Del. Laws, c. 142, § 14.)

### § 654. Assessment.

(a) The county government shall levy a tax for each fiscal year which shall be sufficient to provide funds adequate to reimburse the county for moneys expended or to be expended in such fiscal year in retiring the bonds which have been issued and in paying interest due on the same, and in maintaining or improving the suburban park community, and in paying the necessary general expenses of such community, including all costs of supervision and recreational promotion.

(b) The rate of such tax shall be stated in terms of a certain rate on every $100 of assessed valuation, and a tax at such rate shall be levied on all the real property within the boundaries of such suburban park community listed in the assessment list prepared by the board of assessment of the county for such fiscal year, and in accordance with the valuation of such property as stated in such assessment list. No tax shall be levied upon any property which is not now subject to taxation and assessment for county or municipal purposes. An assessment list to be known as “Suburban Park Community Assessment List” showing the tax levied shall be prepared and shall be delivered to the receiver of taxes of the county together with a tax collection warrant in the form prescribed by § 8005 of this title and said tax shall be collected by such receiver of taxes in the same manner as are other county taxes.

(c) The estimated maximum annual tax rate for the cost of maintaining any park or recreation area, including all costs of supervision and recreational promotion, shall be computed and shall be stated on the ballot at the time of the election as provided in § 632 of this title in terms of a certain rate on every $100 of assessed valuation. The annual tax levied to provide funds for maintaining the park, including all costs of supervision and recreational promotion, for any fiscal year prior to the maturity of the bonds shall not exceed the estimated maximum annual tax rate for such maintenance as stated on the ballot at the time of the election by the residents of the suburban park community.

(9 Del. C. 1953, § 654; 49 Del. Laws, c. 112, § 1; 50 Del. Laws, c. 405, § 1; 57 Del. Laws, c. 762, § 4B.)

### § 655. Costs of parks, improvements and maintenance.

The cost of acquiring, improving and maintaining of any park or recreation area under the provisions of this chapter and making the necessary improvements thereon shall be paid by the owners of the real estate in the suburban park community as hereinbefore provided.

(9 Del. C. 1953, § 655; 49 Del. Laws, c. 112, § 1.)

## Subchapter V

## Acquisition, Improvement and Maintenance of Park Areas

### § 670. Acquisition of land for parks; title and ownership; gifts.

(a) The county government may take or acquire by condemnation in accordance with law, agreement, purchase or gift, lands located within the county outside of the corporate limits of any city or town and not already devoted to a public purpose or used by a public utility in its service of the public as may seem to the county government suitable for park and recreational purposes and necessary to meet the requirements of this chapter. Title and ownership of such lands, however acquired, shall be vested in the State for the use of the county. The county government, pursuant to agreement executed by an incorporated city or town, may acquire by agreement, purchase

or gift, or may lease or agree to undertake to control and maintain for a term of years, lands located within the county owned by the incorporated city or town.

(b) Gifts of land, buildings or money may be accepted for specific maintenance or establishment of park and recreational areas.

(c) The county governments of this State may execute and deliver, in proper form, a lease, concession agreement, easement, or license agreement for any part of the public lands owned by them, including park land and land held in a public trust. The demise and lease of such lands, including public parks, may be upon such conditions and for such rentals as the county government deems advisable for the public good, provided that the demise and lease of public park lands shall be limited to recreational purposes and related activities. Whoever leases any of the lands under any restrictions or conditions of a county government and fails to comply with the restrictions or conditions set forth in the lease with the government forfeits the leasehold interest granted by the lease.

(9 Del. C. 1953, § 670; 49 Del. Laws, c. 112, § 1; 54 Del. Laws, c. 95, § 2; 57 Del. Laws, c. 762, § 4B; 81 Del. Laws, c. 361, § 1.)

## § 671. Contracts for improvements; competitive bids.

(a) The commission shall proceed to arrange for the contracts for the required improvements. The letting of contracts for improvements shall be upon a competitive basis pursuant to public advertisement of the intention of the county government to receive sealed proposals for the work on said improvements. All contracts shall be entered into and acquisitions shall be made by the county government.

(b) It shall be a term of each contract that 10 percent of all payments due shall be withheld until final certification by the commission that the work has been satisfactorily completed, in compliance with the contract.

(9 Del. C. 1953, § 671; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

## § 672. Awarding of contracts; procedure.

Upon the opening of the sealed proposals, the county government, after consultation with the commission, shall award said contracts, but no contract shall be awarded to any other than the lowest bidder except with the unanimous approval of the members of the county government and the recommendation of the commission, and provided the county government shall set down in its minutes the reason or reasons for granting the contract to the person other than the lowest bidder. As a condition of the letting of the contracts, the county government shall require the successful bidder to enter into a bond for the faithful performance of such contract. The county government shall have the power to reject all bids.

(9 Del. C. 1953, § 672; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

## § 673. Supervision by commission; duty to maintain; payment procedures; fences between parks and railroads.

(a) After the awarding of the contracts, all work performed under this chapter shall be under the direct supervision and direction of the commission.

(b) The commission shall be responsible for the maintenance of such parks and recreation areas and shall submit approved bills for such maintenance to the county government for payment.

(c) The bills for recreation and recreational promotion including salaries and equipment shall be approved by the commission and submitted to the county government for payment.

(d) The commission may place fences or barriers not less than 4 feet in height between all developed parks and active railroad tracks, the cost of which shall be shared equally between the county and the State.

(9 Del. C. 1953, § 673; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B; 58 Del. Laws, c. 224.)

# Subchapter VI

# Revision of Suburban Park Community

## § 680. Revision of established suburban park community; expansion and alteration of park or recreation areas; notice; additional funds.

(a) Where the county government has already established a suburban park community hereunder, then, the commission may, upon its own motion, and without having received a request from the county government, and without a petition having been filed, proceed to hold a public hearing on the question whether the area included in the suburban park community should be enlarged or whether the layout of any park or recreational area therein shall be expanded, improved or altered. Such public hearing shall be held and notice thereof shall be published and posted, and the commission shall make a recommendation, in the manner prescribed by § 626 of this title.

(b) Within 15 days after the receipt by the county government of the recommendation of the commission, as hereinbefore provided, the county government shall meet and determine whether or not it is in the public interest to enlarge such suburban park community and what shall be its boundaries, and whether all the real property included therein will be benefited by such enlargement and by such expansion, improvement or alteration of the layout of the park or recreational area therein. Such improvements may be made and bonds may be issued to finance the cost thereof in the manner and subject to the conditions prescribed in §§ 628-633 and 650 of this title.

(9 Del. C. 1953, § 680; 49 Del. Laws, c. 112, § 1; 57 Del. Laws, c. 762, § 4B.)

# Part I
# Provisions Affecting All Counties
## Chapter 7
## Park Districts
### Subchapter I
### General Provisions

### § 701. Purpose.

(a) The purpose of this chapter is to provide a procedure whereby any territory so lying as to form 1 connected area (no portion of which shall be already included in an incorporated park district established under the provisions of this chapter) may be incorporated as a park district to establish and maintain parks and other recreational facilities and pay for the same through district bonds, the interest and principal of such bonds to be collected by taxation of the district benefited.

(b) The provisions of this chapter shall apply only to New Castle County.

(9 Del. C. 1953, § 701; 52 Del. Laws, c. 42; 52 Del. Laws, c. 256; 71 Del. Laws, c. 401, § 12.)

### § 702. Definitions.

As used in this chapter:

(1) "Clerk of the County Council" means the Clerk of the County Council of New Castle County in which the park district is located.

(2) "Clerk of the peace" means the clerk of the peace of the county, Kent or Sussex, in which the park district is located.

(3) "Commission" means the park commission of a park district established by an election under the provisions of this chapter.

(4) "County government" means the county governing body.

(5) "Department of Finance" means the Department of Finance of New Castle County in which the park district is located.

(6) "Legal voter" means every citizen resident in a proposed or existing park district, who would be entitled at the time of holding an election under this chapter to register and vote in any election district of which a proposed or existing park district is a part at a general election, if such general election were to be held at the time of any election under this chapter, whether or not he or she is at that time a registered voter.

(7) "Park or recreation area" means any area of real estate located within the park district suitable for the promotion of the health and recreation of the residents of the park district.

(8) "Receiver of taxes and county treasurer" means the receiver of taxes and county treasurer of the county, Kent or Sussex, in which the park district is located.

(9 Del. C. 1953, § 702; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6A; 70 Del. Laws, c. 186, § 1.)

### § 703. Tax exemption of parks and recreation areas.

All land and property which shall be held, laid out and used for any park or recreation area or which shall be purchased or acquired for such use or purpose under the provisions of this chapter shall be forever free from state, county and municipal taxation so long as used for such purposes.

(9 Del. C. 1953, § 703; 52 Del. Laws, c. 42.)

### Subchapter II
### Organization; Elections

### § 710. Petition to form district.

In organizing any park district under this chapter not less than 100 legal voters resident within the limits of such proposed park district may petition the county government to cause the question to be submitted to the legal voters of such proposed park district whether they will organize as a park district. Such petition shall clearly describe the territory intended to be embraced in such district and the name of such proposed district.

(9 Del. C. 1953, § 710; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6B.)

### § 711. Filing of petition.

Such organization petition should be filed in the office of the clerk of the county government or clerk of the peace.

(9 Del. C. 1953, § 711; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6C.)

### § 712. Calling election; appointment of election officials.

(a) Upon the filing of such organization petition the county government, by ordinance or resolution, may order an election to be held in such proposed district, and in such order fix the time, not less than 30 days nor more than 60 days after the date of filing of the petition, at which an election may be held to determine such question and to elect 7 commissioners as provided in this chapter.

(b) The county government shall fix as many polling places within the boundaries of such proposed district as would be provided in a primary election and shall name the persons to act as judges and clerks at such election.

(c) Thereupon the clerk of the county government or clerk of the peace shall give 20 days notice of said election by publishing 1 notice of the same in at least 1 newspaper, if any be published in said proposed district, or if none be published in said proposed district, then in 1 or more newspapers of general circulation in the proposed district, or if there be no newspaper of general circulation in said proposed district, then by causing said notice to be posted in 5 public places within such proposed district.

(9 Del. C. 1953, § 712; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6D.)

## § 713. Form of ballot.

The question for establishment of a park district and for election of park commissioners shall be presented in the following form:

(1) The question shall be stated as follows:

(Insert name of district) Park District

In accordance with the provisions of Chapter 7, Title 9, of the Delaware Code a petition has been filed to submit to the voters of the proposed (insert name of district) Park District the following question,

"Shall the (insert name of district) Park District be established?"

..... For

..... Against

(2) The park commissioners shall be voted upon as follows:

a.

1. If the territory of the proposed park district includes no more than 1 hundred or more than 7 hundreds then all commissioners shall be voted upon at large and the 7 candidates with the greatest number of votes shall be declared elected.

2. If the proposed park district includes part or all of the territory of 2 hundreds but no more than 2, then 3 of the commissioners shall be elected from among nominees from each hundred and 1 shall be elected from among nominees for commissioner-at-large.

3. If the proposed park district includes territory of 3 hundreds then 2 commissioners shall be elected from each hundred and 1 at large.

4. If the district includes territory of 4, 5, 6, or 7 hundreds, then 1 commissioner shall be elected from each hundred and the remainder, if any, 3, 2, 1, or none, respectively, shall be elected at large.

b. All voters may vote for 7 candidates, whether or not the voter is a resident of the hundred or hundreds from which the candidates have been nominated but a voter may vote for only as many candidates from each hundred or at large as there are commissioners to be elected from each hundred or at large. Where 1, 2, or 3 commissioners are to be elected from nominees from a particular hundred or at large, then the person or 2 or 3 persons respectively with the highest number of votes from among the nominees from that hundred or at large shall be declared elected.

c. The voting for commissioners shall be set up about as follows:

For Park Commissioner(s) From (insert name)

Hundred Vote for (insert number)

_____ (Here insert names of nominees if any, in the order

_____ in which the nominating petitions are received. No

_____ party symbols, slogans or other identification may

_____ be used.)

(Provide 5 additional blank lines for voters to write in names if desired.)

For Park Commissioner(s)-At-Large

Vote for (insert number)

_____ (Here insert names of nominees, if any, in the order

_____ in which the nominating petitions are received. No

_____ party symbols, slogans, or other identification may

_____ be used.)

(Provide 5 additional blank lines for voters to write in names if desired.)

(3) Said ballot shall be authenticated by facsimile signature of the clerk of the county government or clerk of the peace upon the reverse side thereof.

(9 Del. C. 1953, § 713; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6E.)

## § 714. Canvass of returns.

The judges at such organization election shall make return thereof to the county government. The county government shall canvass such returns and shall enter a resolution upon the records of the county government determining and declaring the results of the election.

(9 Del. C. 1953, § 714; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6F.)

## § 715. When district organized.

In case a majority of the votes cast upon the question so submitted shall be in favor of the establishment of such district, said district shall then be deemed organized.

(9 Del. C. 1953, § 715; 52 Del. Laws, c. 42.)

## § 716. First election nominations.

Candidates for park commissioner elected at the election to determine whether or not a park district shall be formed shall be nominated in the same manner and form as prescribed in § 718 of this title with the following exceptions:

(1) The nominating petition shall be filed with the clerk of the county government or clerk of the peace;

(2) Signatures of 200 legal voters upon the nominating petition shall be sufficient; and

(3) The nominating petition shall be filed not less than 15 days prior to the date of the election.

(9 Del. C. 1953, § 716; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6G.)

## § 717. Fixing terms of commissioners.

Except as otherwise provided in this chapter, within 30 days after declaration of the result of the election to organize a district, the 7 persons elected as commissioners shall meet and decide by lot the term for which each shall hold office. Three shall serve for 6 years; 2 shall serve for 4 years; and 2 shall serve for 2 years, respectively, from the date in the next even year an election would otherwise be held, as specified in § 719 of this title or until their successors shall be duly elected and qualified. It is the purpose of this section that the first members of the board shall serve until the date an election would otherwise be held in the next even year, in addition to their 6-, 4- and 2-year terms.

(9 Del. C. 1953, § 717; 52 Del. Laws, c. 42.)

## § 718. Succeeding elections; nominations; ballot.

(a) Nominations of candidates for the office of park commissioners in any park district at all succeeding elections shall be made by petition signed in the aggregate for each candidate by legal voters of such districts, equal in number to not less than 1% of the number who voted at the last preceding election for commissioners in such district, but in no case by less than 25 of such voters. The petition shall be filed with the secretary of such district not less than 30 days nor more than 60 days before the date fixed for the election of such candidate. No statement of candidacy shall be required. The petition shall state whether the nomination is for a commissioner-at-large or a commissioner from a particular hundred.

(b) The petition shall consist of sheets of uniform size and heading. Such petition shall be signed by legal voters of the district only, and opposite the signature of each signer, the signer's residence address shall be written. At the bottom of each sheet shall be added a statement, signed by an adult resident of the park district stating his or her residence address, certifying on oath or affirmation that the signatures on that sheet of said petition were signed in such resident's presence and are genuine, and that to the best of such resident's knowledge and belief the persons so signing were qualified to do so. Such sheets, before being filed, shall be fastened together at the upper edge, and numbered consecutively.

(c) Any candidate may withdraw by filing with the secretary of such district a notice of withdrawal not later than the last day upon which petitions for nominations may be filed.

(d) In all park districts the secretary of such district, shall, within 5 days after the expiration of the time for filing the nominating petitions of the candidates, certify to the board of such district the name or names of the candidate or candidates so nominated. Such certification shall contain the order of the time in which such petitions were filed with the secretary, which shall be the order in which the names of candidates shall appear upon the ballot for election; the park commissioners shall cause the ballots to be printed and furnished for such election, and the authenticity of ballots shall be certified by the facsimile signature of the secretary printed thereon.

(e) Names of such candidates shall be printed upon the election ballot in capital letters not less than $^1/_8$ nor more than $^1/_4$ of an inch in height; and at the beginning of each line in which a name of a candidate is printed a square shall be printed, the sides of which shall not be less than $^1/_4$ of an inch in length, and immediately above the names suitable words printed designating the number of candidates to be voted for such office. Such ballot shall be printed upon plain, substantial white paper but shall have no political party name, platform or principle thereon designated, nor shall any circle be printed upon the ballot.

(9 Del. C. 1953, § 718; 52 Del. Laws, c. 42; 70 Del. Laws, c. 186, § 1.)

## § 719. Terms; election date; notice of election.

(a) The commissioners shall be elected for 6-year terms in all districts now organized or organized after May 20, 1959, with the exception provided in § 717 of this title as to those first elected.

(b) In all park districts, commissioners shall be elected biennially in even years to take the place of those whose terms expire. Such elections shall take place on the first Tuesday in November of even years.

(c) Commissioners shall serve until their successors are elected and qualified.

(d) Notice of the time and place or places of holding such elections shall be given by the commissioners of the park district by publishing the same once in 1 or more newspapers, if there be any published in the district, at least 10 days prior to the election; if none be published in said district, then in 1 or more newspapers of general circulation in the district; if there be no newspaper of general circulation in the district, then by causing said notice to be posted in 5 public places within the district.

(9 Del. C. 1953, § 719; 52 Del. Laws, c. 42.)

### § 720. Conduct of elections.

The park board shall conduct the election, establish precincts and polling places therein, and appoint the judges and clerks of election and fix their compensation; provided that if any other election is held at the same time, the park board may appoint the same judges and clerks of election as are appointed for such other election, and such judges and clerks of election shall also be paid for their services by such district in such amount as the board shall determine. Separate ballot boxes shall be used to receive the ballots cast for park commissioners, and separate returns of the votes cast with such ballots shall be made to the board of commissioners and said board shall, within 5 days after such election, canvass said returns and declare the result of said election and enter a record of such canvass and declaration upon its records.

(9 Del. C. 1953, § 720; 52 Del. Laws, c. 42.)

### § 721. Vacancies; method of filling.

Whenever any member of the governing board of any park district shall:

(1) Die,

(2) Resign,

(3) Become insane,

(4) Cease to be a legal voter in said district,

(5) Be convicted of any infamous crime,

(6) Refuse or neglect to take his or her oath of office, or

(7) Neglect to attend the duties of his or her office or attend meetings of the board for such length of time as such board shall by ordinance fix,

said office may be declared vacant. Vacancies shall be declared, and may be filled by appointment by a majority of the remaining members of the board, and any person so appointed shall hold that person's office until the next regular election for members of the board when a successor for the unexpired term shall be elected.

(9 Del. C. 1953, § 721; 52 Del. Laws, c. 42; 70 Del. Laws, c. 186, § 1.)

## Subchapter III

## Officers; Elections; Powers and Duties

### § 740. Governing board; oath.

Each member of the governing board of any park district before entering upon the duties of each such member's office shall take and subscribe an oath to well and faithfully discharge the member's duties, which oath shall be filed with the secretary of the board. The members of such governing board shall constitute the corporate authority for such district and a majority of such members shall constitute a quorum for said board and any meeting thereof. The members of such governing board shall act as such without compensation, and each member of the board shall be a legal voter of and reside within such district.

(9 Del. C. 1953, § 740; 52 Del. Laws, c. 42; 70 Del. Laws, c. 186, § 1.)

### § 741. Interest in contracts.

No member of the board shall be directly or indirectly in any way pecuniarily interested in any contract or work of any kind whatever, connected with his or her park district.

(9 Del. C. 1953, § 741; 52 Del. Laws, c. 42; 70 Del. Laws, c. 186, § 1.)

### § 742. Records and ordinances.

Governing boards of all park districts shall keep a regular book of records of all ordinances or other proceedings of said board which records shall be open to public inspection at all reasonable and proper times.

(9 Del. C. 1953, § 742; 52 Del. Laws, c. 42.)

### § 743. Proof of ordinances.

All ordinances, orders and resolutions of the governing board of any park district and the date of the publication thereof may be proved by the certificate of its secretary under the seal of the district. When printed in book or pamphlet form purporting to be published by the

governing board such book or pamphlet shall be received as evidence of the passage and legal publication of such ordinances, orders, and resolutions as of the dates mentioned in such publication in all courts or places without further proof.

(9 Del. C. 1953, § 743; 52 Del. Laws, c. 42.)

### § 744. Appropriation ordinances.

The board of each park district shall, within the last quarter of each fiscal year, but not later than the last Tuesday in April, pass an ordinance in which the board may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such district for the succeeding fiscal year and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated to each. After the first 6 months of any fiscal year have elapsed the board may, by $^2/_3$ vote, transfer from any appropriation item its anticipated unexpended funds to any other item of appropriation theretofore made, and the item to which said transfer is made may be increased to the extent of the amount so transferred.

(9 Del. C. 1953, § 744; 52 Del. Laws, c. 42.)

### § 745. Publication of appropriation ordinances.

All ordinances of any park district making appropriations shall within 10 days after their passage, be published at least once in 1 or more newspapers published in the park district, or if no newspaper is published therein, then in 1 or more newspapers of general circulation within the park district; and no such ordinance shall take effect until 10 days after it is so published.

(9 Del. C. 1953, § 745; 52 Del. Laws, c. 42.)

### § 746. Creation of debt.

No member of the board of any park district, nor any person, whether in the employ of said board or otherwise, shall have power to create any debt, obligation, claim or liability, for or on account of said park district, or the moneys or property of the same, except with the express authority of said board conferred at a meeting thereof and duly recorded in a record of its proceedings.

(9 Del. C. 1953, § 746; 52 Del. Laws, c. 42.)

### § 747. Employees.

The board of any park district may employ such engineers, attorneys, clerks and other employees as may be required, and may define and prescribe their respective duties and compensation. The members of the board and all officers appointed by them shall be conservators of the peace within and upon such parks, boulevards, driveways, and property controlled by such park district, and may make arrests on view of the offense, or upon warrants for violation of any of the penal ordinances of such park districts, or for any breach of the peace, in the same manner as the police in cities organized and existing under the general laws of the State.

(9 Del. C. 1953, § 747; 52 Del. Laws, c. 42.)

### § 748. Duties and election of officers.

The board of each park district shall elect from their number a president and a vice-president, who shall hold their respective offices for 1 year, or until their successors shall be elected. The board shall prescribe their powers and duties not inconsistent with the provisions of this Code.

The board shall also appoint a secretary and a treasurer, prescribe their duties, and term of office and require such bonds as the board deems necessary. The secretary and treasurer need not be members of the board, in which case the board may fix their compensation; and both offices may be held by the same person. The secretary shall have power to administer oaths and affirmations.

(9 Del. C. 1953, § 748; 52 Del. Laws, c. 42.)

### § 749. Duties of president.

The president of any park district shall preside at all meetings of the board, and shall call special meetings thereof on the president's own motion or on request of 2 or more of the members, and in case of a special meeting shall cause a notice to be given to all members as provided by the rule of said board. The president shall have the right to vote upon all questions coming before the board and shall be a member thereof.

(9 Del. C. 1953, § 749; 52 Del. Laws, c. 42; 70 Del. Laws, c. 186, § 1.)

## Subchapter IV

## Taxing Powers

### § 750. General taxes; levy.

(a) Each park district shall have the power to levy and collect taxes on all the taxable property in said district for all corporate purposes.

(b) All taxes proposed by the board to be levied upon the taxable property within said district shall be levied by ordinance passed not less than 10 days after publication of its appropriation ordinance. A certified copy of such levy ordinance shall be filed with the department of finance or receiver of taxes and county treasurer not later than the second Tuesday in May in each year. Thereupon, the department

of finance or receiver of taxes and county treasurer shall collect said tax; provided, the aggregate amount of taxes levied for any 1 year inclusive of the amount levied for the payment of the principal and interest on bonded indebtedness of said district shall not exceed the rate of $.05 per $100 of assessed valuation.

(9 Del. C. 1953, § 750; 52 Del. Laws, c. 42; 53 Del. Laws, c. 50, § 1; 55 Del. Laws, c. 85, § 6H.)

### § 751. Assessment list.

The park board of the park district in which a park district tax is to be levied shall use the assessment list of the county in which that district is located as a basis for any park district tax.

(9 Del. C. 1953, § 751; 53 Del. Laws, c. 50, § 2; 55 Del. Laws, c. 85, § 6I.)

### § 752. Tax collection warrant and assessment list.

The board shall execute and deliver its warrant with a duplicate of the assessment list not later than the second Tuesday in May of each year, to the department of finance or receiver of taxes and county treasurer.

(9 Del. C. 1953, § 752; 53 Del. Laws, c. 50, § 2; 55 Del. Laws, c. 85, § 6J.)

### § 753. Collection and deposit of park district taxes.

(a) The department of finance or receiver of taxes and county treasurer shall collect such taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes; provided, however, that in New Castle County the Department of Finance shall allow no abatement or discount upon any taxes levied by park district purposes required to be delivered by them; and shall after the September 30 in the year in which the tax rolls shall be delivered to them, add to the taxes to be paid a penalty of one half of 1 percent per month until the same shall be paid.

(b) All money so collected shall be paid to the treasurer of the park district and shall be deposited by said treasurer in accordance with the provisions of § 771 of this title.

(9 Del. C. 1953, § 753; 53 Del. Laws, c. 50, § 2; 55 Del. Laws, c. 85, § 6K.)

### § 754. Report of park district tax collections and payment of collected taxes.

(a) The department of finance or receiver of taxes and county treasurer shall on the first day of each month make a report to the park board of the park district for which he or she is collecting taxes of all taxes collected in the previous month. The report shall show a complete breakdown of taxes collected, such as debt service and such other information as may be required.

(b) The department of finance or receiver of taxes and county treasurer shall, not less than once each calendar month, pay over to the treasurer of said park district all funds collected by him or her for the park district.

(9 Del. C. 1953, § 754; 53 Del. Laws, c. 50, § 2; 55 Del. Laws, c. 85, § 6L; 70 Del. Laws, c. 186, § 1.)

## Subchapter V

## Bonds; Powers to Issue; Terms

### § 760. Bonds; limitation.

For the payment of land purchased for parks or boulevards, for the building, maintaining, improving and protecting of the same and for the payment of the expenses incident thereto, or for the acquisition of real estate and lands to be used as a site for recreation centers, any park district is authorized to issue the bonds of such park district and pledge its property and credit therefor to an amount including existing indebtedness of such district so that the aggregate indebtedness of such district shall not exceed $2^1/_2$ percent of the value of the taxable property therein, to be ascertained by the last assessment for county taxes previous to the issue from time to time of such bonds.

(9 Del. C. 1953, § 760; 52 Del. Laws, c. 42.)

### § 761. Issuance of bonds; use authorized.

The issue of bonds by any park district shall be authorized by ordinance, and a copy of the same properly certified by the secretary shall be filed with the department of finance or receiver of taxes and county treasurer.

(9 Del. C. 1953, § 761; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6M.)

### § 762. Attestation of bonds; interest; maturity; sale.

Such bonds of a park district shall be issued when authorized under §§ 760 and 761 of this title in the name of the district, signed by the president and secretary, and countersigned by the treasurer, with the seal of said district affixed; they shall bear interest at not exceeding 5 percent per annum payable semiannually, and the principal shall be payable at such time and place as may be determined by the board, not exceeding 20 years from their date. The board of such district may sell the bonds in any manner it deems for the best interests of the district, at not less than par, and the proceeds thereof shall be used exclusively for the purpose authorized in this chapter.

(9 Del. C. 1953, § 762; 52 Del. Laws, c. 42.)

## § 763. Tax for interest and principal.

All park districts, at or before the time of issuance of bonds, shall provide for the levy of taxes, in addition to all other taxes, sufficient to pay the principal of and interest upon said bonds as the same becomes due, and shall file a certified copy of the ordinance or ordinances providing for the levy of said taxes with the department of finance or receiver of taxes and county treasurer.

(9 Del. C. 1953, § 763; 52 Del. Laws, c. 42; 55 Del. Laws, c. 85, § 6N.)

## § 764. Issuance of bonds; bond anticipation notes.

Whenever the commission shall have authorized the issuance of bonds by an ordinance duly adopted pursuant to lawful authority, the commission may borrow money in anticipation of the issuance of such bonds so authorized and, for such purpose, may issue, and from time to time, renew negotiable bond anticipation notes of the commission of an aggregate principal amount not exceeding the principal amount of such bonds authorized by such ordinance. The commission shall authorize such notes by a resolution or resolutions which shall determine the date on which such notes are to be payable, the maximum principal amount thereof and the rate or maximum rate of interest to be borne thereby and the manner of their signing. The faith and credit of the commission are hereby pledged to the payment of the principal of and interest on any notes issued pursuant to this section.

(9 Del. C. 1953, § 764; 52 Del. Laws, c. 42.)

## § 765. Use of funds.

Moneys raised by the issuance of notes in anticipation of the issuance of bonds shall be used only to finance the purpose or purposes for which the proceeds of the bonds may be used and such proceeds shall be applied, to the extent necessary, to pay and retire such notes.

(9 Del. C. 1953, § 765; 52 Del. Laws, c. 42.)

# Subchapter VI

# Miscellaneous Provisions

## § 770. General corporate powers.

Every park district shall, from the time of its organization, be a body corporate and politic by such name as set forth in the petition for its organization and shall have and exercise the following powers:

(1) To adopt a corporate seal and alter the same at pleasure; to sue and be sued; to contract in furtherance of any of its corporate purposes;

(2) To acquire by gift, devise, grant or purchase, any and all real estate, or rights therein necessary for building, laying out, extending, adorning and maintaining any such parks, boulevards and driveways, or for effecting any of the powers or purposes granted under this Code as its board may deem proper, whether such lands be located within or without such district;

(3) To acquire by gift, bequest or purchase any personal property necessary for its corporate purposes;

(4) To pass all necessary ordinances, rules and regulations for the proper management and conduct of the business of the board and district and to establish by ordinance all needful rules and regulations for the government and protection of parks, boulevards, and driveways and other property under its jurisdiction, and to effect the objects for which such districts are formed;

(5) To rent or lease park property for income producing purposes consistent with the operation of park and recreation activities;

(6) To establish and collect fees for the use of park facilities;

(7) To prescribe such fines and penalties for the violation of ordinances as it shall deem proper not exceeding $200 for any 1 offense, which fines and penalties may be recovered by suit in the name of such district before the Superior Court in the county in which such violation occurred, and all fines when collected shall be paid into the treasury of such district;

(8) To enter into agreements with other agencies, organizations or individuals for the rental or lease of lands or facilities owned by such agencies, organizations or individuals;

(9) To manage and control all officers and property of such districts.

(9 Del. C. 1953, § 770; 52 Del. Laws, c. 42.)

## § 771. Deposit of funds.

(a) Any park district, when so requested by its treasurer, shall designate a bank or banks or other depository in which the funds of the district may be deposited. When a bank has been designated as a depository it shall continue as such until 10 days have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities required by this section. When a new depository is designated, the district shall notify the sureties of its treasurer of that fact, in writing, at least 5 days before the transfer of funds. Such treasurer shall be discharged from responsibility for all such funds and moneys deposited in a bank or depository, so designated, while such funds and moneys are so deposited.

(b) No bank shall be qualified to receive such funds or moneys until it has furnished the district with copies of the last 2 sworn statements of resources and liabilities which such bank is required to furnish to the State Bank Commissioner. Each bank designated as a depository

for moneys or funds shall, while acting as such depository, furnish the district with a copy of all statements of resources and liabilities which it is required to furnish to the State Bank Commissioner; provided, that if such funds or moneys are deposited in a bank, the amount of such deposits shall not exceed 75% of the capital stock and surplus of such bank, and such treasurer shall not be discharged from responsibility for any funds or moneys deposited in excess of such limitation.

(9 Del. C. 1953, § 771; 52 Del. Laws, c. 42.)

## § 772. Recreational programs and other special powers.

All park districts shall have power to plan, establish and maintain recreational programs, provide musical concerts, to construct, equip and maintain field houses, gymnasiums, assembly rooms, comfort stations, indoor and outdoor swimming pools, wading pools, bathing beaches, bath houses, locker rooms, boating basins, boat houses, lagoons, skating rinks, piers, conservatories for the propagation of flowers, shrubs, and other plants, animal and bird houses and enclosures, athletic fields with seating stands, golf, tennis, and other courses, courts, and grounds, and the power to make and enforce reasonable rules, regulations, and charges therefor. The express enumeration of each of the foregoing recreational facilities and equipment which park districts are herein given the power to provide shall not be construed as a limitation upon said park districts, nor prohibit any park district from providing any other facilities or equipment which may be appropriate for park purposes in any park of said district, nor shall the same in any way be held to limit the power and authority conferred upon park districts under other sections of this chapter.

(9 Del. C. 1953, § 772; 52 Del. Laws, c. 42.)

## § 773. Approval of the General Assembly.

When land has been acquired under the provisions of this chapter, it is to be considered as a public trust and may not be sold or otherwise disposed of without prior approval by an act of the General Assembly.

(9 Del. C. 1953, § 773; 52 Del. Laws, c. 42.)

# Part I
# Provisions Affecting All Counties

## Chapter 8
## County Libraries

### Subchapter I

### General Purposes

### § 800. Creation of county library agency; powers of county library administrator.

(a) The government of each county shall create a library agency as a part of the executive branch of county government and, in accordance therewith, shall have the power:

(1) To establish and administer a county library system offering to residents of the county access to services and resources and guidance in their use. Each county may create a countywide library system offering free and equal access to such services and resources to every resident of the county, or each county may create library districts within the county supported by taxes levied upon real property within said districts as provided for in this chapter providing that county residents who are not residents of a library district shall have access to such library district's services and resources upon payment of a fee set by ordinance of the county;

(2) To receive, by taxation or otherwise, accept, administer and expend any money, materials or other aid granted, appropriated or otherwise provided by local, state or federal governments, or by any source, public or private, in accordance with the terms thereof, for the purposes provided in this chapter;

(3) To perform all other activities pertinent to the organizational function of the library agency.

(b) The county executive or President of Levy Court, whichever applies, upon the approval of the county library advisory board, may appoint a county library administrator who shall be referred to as county librarian, or the county library manager in New Castle County, who shall be the administrator of the county library agency.

(59 Del. Laws, c. 480, § 2; 60 Del. Laws, c. 162, § 1; 71 Del. Laws, c. 401, § 13.)

### § 801. County library advisory board.

There is hereby created in each county a county library advisory board which:

(1) Shall serve in an advisory capacity to the county library administrator and the county library agency;

(2) Shall bring local library needs to their attention and shall recommend to them means for implementation of an effective county library system;

(3) May, through its members on the Council on Libraries, bring library matters to the attention of the Administrator of State Library Services.

(4) In New Castle County, shall serve as a subcommittee to the Department of Community Services Board.

(59 Del. Laws, c. 480, § 2; 71 Del. Laws, c. 401, § 14.)

### § 802. Public library collection development policy.

(a) For purposes of this section, "library" includes all libraries established, administered, or controlled by a county library agency under § 800 of this title.

(b) All libraries must adopt and follow a written collection development policy as required by § 8734 of Title 29.

(c) The governing body of a library may not dismiss, suspend, discipline, demote, reassign, transfer, or otherwise retaliate against an employee or contractor for acting in a manner consistent with the Delaware public library collection development principles under § 8734 of Title 29 or the written collection development policy required by § 8734 of Title 29.

(85 Del. Laws, c. 218, § 4.)

### Subchapter II

### Method of Creating and Operating Library Systems in Kent County

### § 803. Authority to establish systems.

Kent County may establish a countywide library system or 1 or more district library systems by ordinance after public hearing held after 10 days' notice published once in a newspaper of general circulation in the County. In the event a district library is created said ordinance shall also create a library commission for each library district to advise the Levy Court on the operation of the district library. This power includes the power to acquire real estate by purchase, gift or devise.

(60 Del. Laws, c. 162, § 2.)

## § 804. Payment of costs of countywide library system.

In the event that a countywide library system is established in Kent County, the cost of establishment, maintenance, operation and all other costs thereof shall be paid from the general fund of the County out of general county tax proceeds.

(60 Del. Laws, c. 162, § 2.)

## § 805. Library districts — Establishment; budget.

Should Kent County elect to establish 1 or more library districts within the County, the County shall levy and raise by taxation a special district library tax for the purpose of the establishment of such a library in each district, and for the maintenance and increase and support of the library such sum of money as is annually approved in a budget for such purpose by the county governing body, said budget to be adopted at the same time the annual county budget is adopted. A library district may be created and a tax raised pursuant to this subchapter to raise funds to pay the Sussex or New Castle County government a contract fee to allow residents of said Kent County district the privilege of using a library located in Sussex or New Castle Counties.

(60 Del. Laws, c. 162, § 2.)

## § 806. Library districts — Tax rate.

After the district library budget or budgets have been adopted, the Kent County Levy Court shall fix a district library tax rate or rates based upon the most recent assessment made by them of the real property located in each district sufficient to raise the amount determined to be raised in the budget for each county library district.

(60 Del. Laws, c. 162, § 2.)

## § 807. Library districts — Tax levy.

After the Kent County Levy Court has fixed the district library tax rate or rates, it shall levy the district library tax or taxes on the real property located within each library district according to such tax rate or rates applied to the most recent assessment list in the County. The district library tax or taxes shall be in addition to and levied at the same time as the annual county tax.

(60 Del. Laws, c. 162, § 2.)

## § 808. Library districts — Delivery of duplicate assessment list.

Promptly after levying the district library tax or taxes the Kent County Levy Court shall deliver to the Receiver of Taxes and County Treasurer, for his or her use in collecting the taxes, the duplicate assessment list for each library district as prepared and furnished to the county government by the Board of Assessment.

(60 Del. Laws, c. 162, § 2; 70 Del. Laws, c. 186, § 1.)

## § 809. Library districts — Tax collection warrant.

(a) At the time of delivery of the duplicate assessment lists to the Receiver of Taxes and County Treasurer there shall be attached to each list a tax collection warrant which shall be executed in the manner and substantially in the form prescribed by subsections (b) and (c) of this section.

(b) Each warrant shall be dated as of the date on which the taxes referred to therein were levied and shall be signed by at least 2 elected officials of the Kent County Levy Court and sealed with the seal of the County and attested by the Clerk of the Peace.

(c) The warrants shall be substantially in the following form:

STATE OF DELAWARE

SS.

KENT COUNTY

To the Receiver of Taxes and County Treasurer of Kent County, greetings:

We command you that you collect from the persons named in the duplicate assessment list annexed hereto, for their library district taxes payable to Kent County for the year beginning July first next, ..... percent as a rate upon every one hundred dollars on the amount of their respective assessments; and if any person named in the annexed duplicate assessment list shall not pay that person's tax after you have demanded payment, we command you in such case that you collect the tax, or the part thereof remaining unpaid, with lawful costs, in the manner prescribed by law. And we further command you that you pay the amount which, according to this warrant and the annexed duplicate assessment list you are required to collect, in the manner and within the times appointed by law in this behalf. Hereof fail not at your peril.

Given at Dover by the order of Kent County, under the hands of us, members of said county governing body, the ..... day of ....., A.D. .....

Seal of Office of the .....

Clerk of Peace ..... Commissioners

ATTEST :.....Clerk of the Peace

(60 Del. Laws, c. 162, § 2; 70 Del. Laws, c. 186, § 1.)

## § 810. Library districts — Collection of library district taxes; lien on real property.

Thereafter the district library tax or taxes shall be collected by the Receiver of Taxes and County Treasurer at the same time and in the same manner as the annual general county tax is collected according to Title 9, Chapters 86 and 87, and shall be a lien on real property within the county library district or districts the same as the annual county tax levy according to Title 9, Chapters 86 and 87.

(60 Del. Laws, c. 162, § 2.)

## § 811. General borrowing power.

Under the circumstances and conditions set forth in this subchapter, money may be borrowed by Kent County in aid of any public library in the County now or hereafter established whether a countywide or district library.

(60 Del. Laws, c. 162, § 2.)

## § 812. Adoption of resolution.

The Kent County Levy Court shall adopt a resolution to the effect that it deems it advisable that a specified sum of money be borrowed for some specified purpose or purposes and whether the borrowing is to be for a countywide or district library.

(60 Del. Laws, c. 162, § 2.)

## § 813. Submission of resolution to voters.

The Kent County Levy Court shall submit the question of the approval or rejection of the resolution to the residents of the library district, 18 years of age or older, at a special referendum called for the purpose or to the residents, 18 years of age or older, of the County as a whole if the borrowing is for a countywide library.

(60 Del. Laws, c. 162, § 2.)

## § 814. Notice of resolution; publication; form.

The Kent County Levy Court shall give notice that the resolution will be submitted to the voters. Such notice shall be given by publication in 2 issues of a newspaper of general circulation in Kent County and by printed advertisements posted in at least 5 public places in the district at least 10 days prior to the date of the special referendum at which the resolution will be submitted to the voters. The notice shall state the substance of the resolution, and the day, hour and place that it will be submitted to the voters.

(60 Del. Laws, c. 162, § 2.)

## § 815. Election ballot.

The Kent County Levy Court shall appoint the persons to conduct the election. The polls shall remain open at least 4 hours. All residents of the County, 18 years of age or older, shall be entitled to vote at such election if the borrowing is for a countywide library. If the borrowing is for a district library only the residents of the library district, 18 years of age or older, shall be entitled to vote. The voting shall be by ballot on which shall be written or printed the words “for the resolution in aid of the library” or “against the resolution in aid of the library.”

(60 Del. Laws, c. 162, § 2.)

## § 816. Results of election.

If a majority of the votes cast be for the resolution in aid of the library, authority to borrow the amount of money specified in the resolution shall be deemed to be thereby conferred. If a majority of the votes cast be against the resolution in aid of the library, the money shall not be borrowed.

(60 Del. Laws, c. 162, § 2.)

## § 817. Bonds — Issuance; form.

If the results of the election be for the resolution in aid of the library, the Kent County Levy Court shall borrow the amount specified in the resolution and for this purpose may issue a bond or bonds for the amount. Such bond or bonds shall be in such form and denomination, shall bear such date and be at such rate of interest without limitation which may be determined by resolution of the Kent County Levy Court and shall mature at such time or times as the Kent County Levy Court determines. Any bond issued shall be signed by the President of the Kent County Levy Court and attested by the Clerk of Peace, and shall be sealed with the county seal. The faith and credit of Kent County shall be deemed to be pledged by every bond issued under this subchapter.

(60 Del. Laws, c. 162, § 2.)

## § 818. Bonds — Payment of interest and principal; sinking fund.

Whenever any bond or bonds have been issued under this subchapter, the Kent County Levy Court shall annually raise by levy and taxation a sum sufficient for the payment of the interest on the amount or amounts borrowed and shall likewise raise from time to time

by levy and taxation such sum or sums as shall be necessary to establish a sinking fund for the payment of the debt secured by the bond or bonds at or before the maturity thereof. The sums authorized to be raised for interest and for a sinking fund shall be raised in the same manner as the county library tax is raised and shall be in addition to all sums authorized to be raised by the County by any other statute. If the improvements for which bonds are sold are for the benefit of a library district, only the real property in that library district shall be taxed.

(60 Del. Laws, c. 162, § 2.)

## § 819. Bonds — Assumption of existing library district bonds.

In the event any district library commission created pursuant to Chapter 71 of Title 14 conveys any property to the Kent County Levy Court for which bonds are outstanding, the Kent County Levy Court shall assume all obligations of said bonds if the property is used for a countywide library system but if the property is used for a district library system the cost of paying interest and principal on said bonds shall be included in the annual tax levy on real property in that district only.

(60 Del. Laws, c. 162, § 2.)

# Part I
# Provisions Affecting All Counties

## Chapter 9
## Dogs

### Subchapter I
### General Provisions

(80 Del. Laws, c. 248, § 5.)

**§ 901. Definitions [Transferred].**

Transferred to § 3041F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 902. Fees for dog and kennel licenses; terms [Transferred].**

Transferred to § 3042F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 903. Inspections of facilities and premises; suspension of kennel or retail dog dealer license [Transferred].**

Transferred to § 3043F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 904. Specifications for the humane handling, care and treatment of dogs [Transferred].**

Transferred to § 3044F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 905. Licensing agents; bond requirements; service charge; negotiations [Transferred].**

Transferred to § 3045F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 906. Reciprocity of dog license [Transferred].**

Transferred to § 3046F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 907. Rules and regulations [Transferred].**

Transferred to § 3047F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 908. Dogs running at large [Transferred].**

Transferred to § 3048F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 909. Destruction of muskrat dens, poultry or livestock [Transferred].**

Transferred to § 3049F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 910. Dogs deemed personal property; theft; penalty [Transferred].**

Transferred to § 3050F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 911. Injuring or killing dogs for certain acts [Transferred].**

Transferred to § 3051F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 912. Poisoning of dogs [Transferred].**

Transferred to § 3052F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 913. Liability of dog owner for damages [Transferred].**

Transferred to § 3053F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 914. Impounding of dog running at large [Transferred].**

Transferred to § 3054F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 915. Penalties; fines [Transferred].**

Transferred to § 3055F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 916. Unauthorized acts against a service dog; penalties [Transferred].**

Transferred to § 3056F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 917. County dog law management [Transferred].**

Transferred to § 3057F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

**§ 918. Rules and regulations [Transferred].**

Transferred to § 3058F of Title 16 by 80 Del. Laws, c. 248, § 5, effective May 25, 2016.

### § 919. [Reserved.]

(80 Del. Laws, c. 248, § 5.)

## Subchapter II

## Dangerous and Potentially Dangerous Dogs

(80 Del. Laws, c. 248, § 6.)

### § 920. Definitions [Transferred].

Transferred to § 3071F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 921. Dog Control Panel; establishment; organization [Transferred].

Transferred to § 3072F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 922. Seizure and impoundment of dangerous or potentially dangerous dogs; notification of dog owner; request for hearing [Transferred].

Transferred to § 3073F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 923. Exceptions [Transferred].

Transferred to § 3074F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 924. Hearing procedures; appeal [Transferred].

Transferred to § 3075F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 925. Finding to declare a dog dangerous; duties of owner [Transferred].

Transferred to § 3076F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 926. Finding to declare a dog potentially dangerous; duties of owner [Transferred].

Transferred to § 3077F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 927. Liability of owner for costs of impoundment [Transferred].

Transferred to § 3078F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

### § 928. Violations by owners of dangerous or potentially dangerous dogs; penalties [Transferred].

Transferred to § 3079F of Title 16 by 80 Del. Laws, c. 248, § 6, effective May 25, 2016.

# Part I
# Provisions Affecting All Counties

## Chapter 10
## For-Profit Cemeteries

(81 Del. Laws, c. 385, § 1.)

### § 1001. Purpose.

The purpose of this chapter is to prevent the deterioration of for-profit cemeteries in each county and to empower each county to enforce maintenance regulations and penalties for the failure to follow such regulations.

(81 Del. Laws, c. 385, § 1.)

### § 1002. Definitions [For application of this section, see 84 Del. Laws, c. 261, § 16].

As used in this chapter:

(1) “Cemetery” means land or structure used or intended to be used for the interment or entombment of human remains, including facilities used for the final disposition of cremated remains or remains subjected to “natural organic reduction,” as defined under § 3101 of Title 16.

(2) “For-profit cemetery” means any person, partnership, corporation, or business entity operating a cemetery for purposes of generating a profit, specifically excluding churches, religious organizations, any nonprofit entities, and veteran organizations.

(81 Del. Laws, c. 385, § 1; 84 Del. Laws, c. 261, § 8.)

### § 1003. Maintenance of for-profit cemeteries.

(a) The government of each county may establish regulations regarding maintenance of for-profit cemeteries, including:

(1) Trimming or mowing grass, pruning shrubs, or trimming trees in and around the cemetery.

(2) Trimming or mowing grass to a level where flat markers of individual graves can be seen.

(3) Suppressing or removing weeds on cemetery property.

(4) Repairing or restoring improvements, structures, or fences on cemetery property.

(5) Maintaining cemetery roads accessible to the public and repairing road and sidewalk surfacing that presents safety hazards.

(6) Maintaining occupied crypts and niches properly sealed or closed.

(7) Refilling or resetting settled graves or markers annually or within 120 days of the cemetery operator or cemetery employees becoming aware of the issue.

(8) Repairing any grave markers, monuments, or burial vaults that are damaged by the negligence of the cemetery, the cemetery employees, or contractors employed by the cemetery.

(9) Supplying and emptying trash receptacles when filled.

(10) Maintaining public areas of the cemetery grounds and water features on cemetery property to ensure they are free of trash and debris.

(11) Providing clear delineation of undeveloped cemetery property with the use of signage.

(12) Controlling vermin and insect problems on cemetery property.

(b) Nothing contained in the recommended maintenance requirements of subsection (a) of this section should be construed to require specific topography, structures or other cemetery-related items on the property.

(c) Sections within a cemetery that are specifically established and intended to be maintained in a natural condition are not subject to the recommended maintenance requirements of subsection (a) of this section.

(d) Sections of a cemetery that do not include burial lots that have been sold, transferred, or are available for sale with perpetual care should be exempt from the recommended maintenance requirements of subsection (a) of this section.

(e) Any person, partnership or corporation engaged in the business of selling burial lots with perpetual care for profit should maintain written minimum standards for the maintenance of the cemetery property that conform with or exceed the recommended maintenance requirements of paragraphs (a)(1)-(10) of this section.

(f) Consumers should be furnished with a copy of the maintenance standards prior to settlement on a burial lot or lots.

(g) A written copy of the maintenance standards should be kept on file at the cemetery office and should be made available within 30 days upon request.

(h) Each county may impose penalties upon a for-profit cemetery who fails to comply with the county’s maintenance requirements.

(81 Del. Laws, c. 385, § 1.)

# Part II
# New Castle County
## Chapter 11
## County Executive and County Council
## Subchapter I
## Powers of the Government of New Castle County

### § 1101. General powers.

(a) *Granted.* — The Government of New Castle County as established by this chapter shall assume and have all powers which, under the Constitution of this State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute, including, but not limited to, any powers conferred prior to May 26, 1965, by the General Assembly upon New Castle County, or upon the Levy Court of New Castle County, or upon the Levy Court Commissioners of New Castle County, or upon the officers or employees of New Castle County, or upon counties generally, or upon Levy Court Commissioners generally. This grant of power includes the power to fix the tax rate upon the assessed valuation of all real property in New Castle County subject to assessment by the County. This grant of power further includes the power to fix the fees of the Recorder of Deeds in New Castle County for services, any statute denying such right to the contrary notwithstanding. This grant of power further includes the power to impose a surcharge on any application for a building permit issued by New Castle County in an amount not to exceed .5% of the residential construction value and of the first million dollars of commercial construction value applicable to said building permit application, to provide funding for volunteer fire companies except that this surcharge shall not be added to building permits applied for by an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code [26 U.S.C. § 501(c)(3)] which provides owner-occupied housing to low and moderate income households by rehabilitating residential properties and reselling said properties without profit, nor to the Delaware State Housing Authority nor to any applicant funded by the Delaware State Housing Authority. This grant of power does not include the power to enact private or civil law concerning civil relationships, except as incident to the exercise of an expressly granted power, and does not include the power to define and provide for the punishment of felonies. This grant of power shall also include the power to impose and collect by ordinance a tax upon the transfer of real property situate within the unincorporated areas of the County, subject to the conditions and limitations provided in § 8102 of this title.

(b) *Construction.* — The powers of New Castle County shall be construed liberally in favor of the County, and specific mention of particular powers in this title shall not be construed as limiting in any way the general powers stated herein.

(9 Del. C. 1953, § 1101; 55 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 768, § 1; 67 Del. Laws, c. 415, § 2; 71 Del. Laws, c. 400, § 1; 77 Del. Laws, c. 268, § 1.)

### § 1101A. Definitions.

For purposes of this chapter:

(1) “Chief Financial Officer” means the Chief Financial Officer of New Castle County or a designee.

(2) “Fire protection” means the prevention and extinguishment of fires; maintenance of apparatus and equipment, including ambulances, rescue trucks, aerial, or platform trucks and rescue boats; provision of basic life support; and operation of stations.

(3) a. “Local service function” or “LSF” means a local governmental service, or a group of closely allied governmental services, that is all of the following:

1. A service for which, New Castle County or any municipality, as distinguished from the State, has a primary responsibility for provision and financing, under the Delaware Constitution, Delaware Code, or judicial decision.

2. Performed or financially supported by New Castle County and by at least 1 municipality, in whole or in part, instead of New Castle County.

3. Funded by New Castle County, in whole or in part, through property tax revenue.

b. “Local service function” or “LSF” may include any of the following:

1. Planning and zoning, including subdivision regulations.

2. Adoption and enforcement of ordinances for the protection of persons and property from hazards in the use, occupancy, condition, alteration, maintenance, repair, sanitation, removal, and demolition of buildings, structures, and appurtenant grounds; the operation of equipment; and outdoor signs, including codes and regulations for any of the following:

A. Zoning.

B. Building.

C. Plumbing.

D. Property maintenance.

3. Programs for redevelopment, affordable housing, and urban renewal.

4. Parks and park related activities and recreational programs.

5. Police protection.

6. Fire protection.

7. 911 communications.

8. Animal control.

9. Public works, including maintenance and operation of sanitary and storm sewers, drainage systems, sewage disposal facilities, and refuse disposal facilities, including trash and garbage collection disposal.

10. Lighting of streets, roads, alleys, and other public places.

11. Maintenance and operation of the water supply system.

12. Library system.

(4) "Municipality" means a municipal corporation located within New Castle County and incorporated by an act of the General Assembly.

(5) "New Castle County service percentage" means the degree to which New Castle County provides a local service function within a municipality, determined by subtracting the degree to which a municipality provides the local service function from 100%. The New Castle County service percentage in the unincorporated area equals 100%.

(83 Del. Laws, c. 7, § 1; 83 Del. Laws, c. 7, § 10; 83 Del. Laws, c. 283, § 7; 84 Del. Laws, c. 514, § 9.)

## § 1102. Local service functions; subcategories; responsibility for performance.

(a) New Castle County may divide a local service function into subcategories on forms used under § 1128 of this title. A subcategory of a local service function constitutes a local service function.

(b) The responsibility for all or part of a local service function in a municipality is established as set forth under the approved budget enacted for fiscal year 2023 under § 1155 of this title, or by the later of any of the following:

(1) A municipality provides timely notice of a change in degree of performance of a local service function to New Castle County under § 1127(d)(2) of this title.

(2) New Castle County and a municipality enact ordinances transferring responsibility for performance of a local service function under subsection (c) of this section.

(3) A service performed by a municipality is classified as a local service function under subsection (d) of this section.

(4) A new local service function is established under § 1128 of this title.

(c) (1) Responsibility for the performance or funding of a local service function may be transferred between New Castle County and a municipality by concurring affirmative action in the form of an ordinance enacted by the County Council of New Castle County and of the governing body of the municipality.

(2) The ordinances transferring a local service function under paragraph (c)(1) of this section must state all of the following:

a. The nature of the local service function transferred.

b. The effective date of the transfer.

c. The manner in which affected employees engaged in the performance of the local service function will be transferred, reassigned, or otherwise treated.

d. The manner in which real property, facilities, equipment, or other personal property required in the exercise of the local service function will be transferred, sold, or otherwise treated.

e. The method of financing to be used in the exercise of the local service function received.

f. Other legal, financial, and administrative arrangements necessary to effect transfer of the local service function in an orderly and equitable manner.

(d) (1) If a municipality is performing a service that is included in the New Castle County general operating budget, the municipality may request that the service be classified as a local service function in the next fiscal year by providing a notice to New Castle County by August 1 that states all of the following:

a. The service that is included in the New Castle County general operating budget.

b. The degree of performance.

c. The date municipality began performing the service.

(2) New Castle County may request, and the municipality must provide, additional information that may reasonably be needed to determine the degree of performance of the service by the municipality.

(3) By November 1, New Castle County shall notify the municipality of New Castle County's determination regarding the municipality's request under paragraph (d)(1) of this section.

(4) If a municipality is unable to reach agreement with New Castle County regarding the municipality's request under paragraph (d)(1) of this section, the municipality may demand arbitration under the procedure in § 1128(d) of this title.

(e) [Repealed.]

(9 Del. C. 1953, § 1102; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15; 82 Del. Laws, c. 233, § 1; 83 Del. Laws, c. 7, § 10.)

### § 1103. Exercise of powers.

All powers of the government of New Castle County shall be carried into execution as provided by this title or by other law of this State or if this title or other law of this State makes no such provision, as provided by ordinance or resolution of the County Council of New Castle County.

(9 Del. C. 1953, § 1103; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## Subchapter II

## County Executive

### § 1111. Election and term.

(a) At the first general election in November following May 26, 1965, and each fourth year thereafter, a County Executive shall be elected at large from New Castle County, except that if such first general election is in a nonpresidential election year, then the County Executive thus elected shall serve a term of 2 years and thereafter shall be elected each fourth year in a presidential election year. He or she shall take office on the first Tuesday in January following his or her election. He or she shall serve no more than 2 consecutive terms of 4 years each, not counting any partial terms he or she may serve as a result of vacancy in the office of County Executive or as a result of his or her election to a term of 2 years as aforesaid. Following any 2 consecutive 4 year terms served by the County Executive, he or she may again hold the office provided that a 4 year term has intervened since he or she last held the office.

(b) The County Executive shall be the chief executive officer of the County. The County Executive shall be responsible to the people of the County for the executive and administrative work of the County. The County Executive shall be recognized as the head of the County Council for all ceremonial purposes, the purposes of military law, and the acceptance of service of civil process.

(9 Del. C. 1953, § 1111; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

### § 1112. Qualifications.

The County Executive shall be a citizen of the United States, a qualified elector of New Castle County, and shall have been a resident of New Castle County for at least 5 years immediately preceding his or her election. Removal from the County as a resident shall be construed as vacating the office of County Executive. The County Executive shall be no less than 27 years old when elected to the office of County Executive.

(9 Del. C. 1953, § 1112; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1.)

### § 1113. Compensation.

The annual salary of the County Executive shall not be less than $67,000 and may be changed by ordinance or upon a recommendation by the New Castle County Compensation Commission which has been adopted and ordained by County Council.

(9 Del. C. 1953, § 1113; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 493, § 1; 71 Del. Laws, c. 401, § 16.)

### § 1114. Vacancy in office.

(a) If a vacancy occurs in the office of County Executive by reason of death, resignation, removal from office, or other cause, the Governor shall appoint an acting County Executive to serve until the vacancy is filled as a result of an election. The person appointed by the Governor to be acting County Executive shall meet all eligibility requirements to be a candidate for that office.

(b) Whenever a vacancy in the office of County Executive occurs for any reason, within 10 days following the creation of the vacancy, the President of County Council shall deliver to the Department of Elections for New Castle County a writ of election reporting the existence of the vacancy and requesting that a special election be scheduled to fill the same.

(c) On the next day after receiving a writ of election, unless the same shall be Saturday, Sunday, or a legal holiday, and then on the next business day following, the Department of Elections for New Castle County shall post a proclamation reciting the writ and appointing a day for holding a special election, at the following locations:

(1) On the outside of the door of the New Castle County Courthouse;

(2) On the Internet; and

(3) In at least 5 public places in New Castle County.

(d) (1) If the Department of Elections for New Castle County receives a writ of election reporting the existence of a vacancy in the office of County Executive then, no more than 45 days after posting said proclamation pursuant to subsection (c) of this section, it shall hold a special election to fill such vacancy; provided, however that:

a. If the special election to fill the vacancy must be scheduled pursuant to this section within the 45 days immediately following another special election, the special election to fill the vacancy shall be held on the forty-fifth day following the previous special election; and

b. If the special election to fill the vacancy must be scheduled pursuant to this section on a Saturday, Sunday or legal holiday, said special election shall be held on the first business day thereafter.

(2) Notwithstanding paragraph (d)(1) of this section:

a. In the year of a general election, if a vacancy occurs in the office of County Executive on or after June 1 but before August 20 of that year, the special election to fill such vacancy shall be held that year on the day of the general election;

b. In the year of a general election in which the office of County Executive is not on the general election ballot, if a vacancy occurs in the office of County Executive on or after August 20 of that year but before the date of the general election, the special election to fill such vacancy shall be held that year on the forty-fifth day following the general election, or within 1 week thereafter.

(e) Any political party eligible to have a candidate listed on a ballot in the most recent general election preceding the creation of the vacancy may select a candidate to be listed on the ballot for the special election. Candidate names must be received by the Department of Elections for New Castle County no more than 10 days following the date on which the Department posts its proclamation reciting the writ of election and appointing a day for holding a special election. The candidate for a political party shall be selected by the county chair of that party, or in the event that a county chair does not exist, then by the party's state chair.

(f) To the greatest extent feasible, the Department of Elections for New Castle County will use the same polling places as used in a general election; provided, however, that the department may require voters from multiple election districts to use a single polling place and, in the event a normal polling place is not available to be used on the day of the special election, may use as polling places buildings which are not normally used as polling places.

(g) The Department of Elections for New Castle County will appoint election officers as necessary to conduct the special election.

(h) Except as provided in this section, special elections conducted to fill a vacancy in the office of County Executive shall be provided for, opened, held, conducted and closed and the result thereof ascertained and certified in the same manner and subject to the same laws, as far as the same may be applicable, as are prescribed for the general election; provided, however, that the provisions of § 4980(b) of Title 15 shall not apply to any special election held pursuant to this section, nor shall that section interfere with the conduct of a special election held pursuant to this section. Ballots for any special election conducted on the date of a general election pursuant to this section shall be merged with the general election ballots for that date and the 2 elections shall be conducted as a single, general election.

(i) The Superior Court for New Castle County, as constituted under article V, § 6 of the Delaware Constitution, shall at 10 a.m. on the second day after a special election conducted in accordance with this section convene and perform its duties prescribed by the Delaware Constitution with reference to the special election, at the same place, with the same powers and in the same manner as for a general election. If the second day after a special election is a Saturday, Sunday or legal holiday, the canvass of the special election shall commence at 10 a.m. on the first business day thereafter.

(j) A candidate elected pursuant to this section shall immediately upon certification of election take office and shall serve until the expiration of the term.

(k) Unless otherwise provided by the laws of this State, all necessary costs and expenses, including the compensation of election officers, incurred in carrying into effect a special election pursuant to this section, except those that have merged with the general election pursuant to subsection (d) of this section, shall be paid by New Castle County.

(9 Del. C. 1953, § 1114; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15; 81 Del. Laws, c. 239, § 1.)

## § 1115. Absence or disability.

During the temporary absence or disability of the County Executive, the Chief Administrative Officer shall act as County Executive and may sign contracts or other legal papers or instruments which the County Executive is authorized to sign. The County Executive shall designate, in writing, a head of a county department who shall act as County Executive during the temporary absence or disability of both the County Executive and the Chief Administrative Officer. The Acting County Executive may sign contracts or other legal papers or instruments which the County Executive is authorized to sign.

(9 Del. C. 1953, § 1115; 55 Del. Laws, c. 85, § 1.)

## § 1116. Powers and duties.

The County Executive shall:

(1) See that the duties and responsibilities of the executive and administrative agencies of the County are properly performed and that the work of the county offices, departments, and agencies is properly coordinated;

(2) See that the laws of the State required to be administered by the County, the provisions of this title, ordinances, and regulations of the County are enforced;

(3) Make appointments to positions for which the County Executive has appointing authority and to other positions for which no appointing authority is prescribed;

(4) Except as otherwise provided in this title, shall remove or suspend at his or her pleasure any person whom the County Executive may appoint to a position of trust or emolument;

(5) Receive and examine complaints made against any officer or employee for neglect of duty or malfeasance in office;

(6) Have full authority to examine the books, papers, records, accounts, moneys, securities and property of the County in the possession of all offices, departments, or boards which the County Executive supervises, and may in the County Executive's discretion delegate such authority to 1 or more competent persons;

(7) Require the fiscal officers of the County to make such special audits, investigations, or examinations as the County Executive may deem appropriate;

(8) Require of officers, departments, or agencies under the County Executive's supervision the submission of any reports the County Executive deems appropriate;

(9) Sign all contracts, bonds, or other instruments requiring the assent of the County, except those which other officers are authorized by this title or by the County Council under this title, to sign;

(10) Administer oaths necessary or appropriate for the performance of the County Executive's duties;

(11) Prepare and submit to the County Council, and execute after adoption, the annual budget, capital program, and capital budget;

(12) Exercise such other powers and perform such other duties as may be prescribed by ordinance or by law.

(9 Del. C. 1953, § 1116; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

### § 1117. Performance of functions by contract.

Whenever in this title any function or duty is assigned to any officer, department or board for performance, such officer, department or board may perform such function by contract to the extent authorized in writing by the County Executive.

(9 Del. C. 1953, § 1117; 55 Del. Laws, c. 85, § 1.)

### § 1118. Civil defense.

The County Executive shall by rule provide for the organization and performance of such civil defense functions as shall from time to time be performed by the County.

(9 Del. C. 1953, § 1118; 55 Del. Laws, c. 85, § 1.)

### § 1119. Communications between County Executive and County Council.

The County Executive, orally or in writing, may present messages, information, and recommendations to the County Council.

(9 Del. C. 1953, § 1119; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

### § 1120. Power to appoint Chief Administrative Officer and Department Directors.

(a) The County Executive shall appoint a Chief Administrative Officer who shall serve at the pleasure of the County Executive. The Chief Administrative Officer shall be qualified by education, training and experience for the duties to be performed.

(b) The County Executive, with the advice and consent of the County Council, shall appoint the General Manager of Land Use, the General Manager of Special Services, the General Manager of Community Services, the Chief Procurement Officer, the Chief Financial Officer, the Chief Human Resources Officer, the County Attorney, as well as the heads of any subsequently created departments, who shall each serve at the pleasure of the County Executive.

(c) Notwithstanding any other provision of state or county law, on February 9, 2005, any persons then serving in any of the positions enumerated in this section shall cease to be classified service members of the New Castle County Merit System, but may thereafter continue to serve at the pleasure of the County Executive.

(9 Del. C. 1953, § 1120; 55 Del. Laws, c. 85, § 1; 59 Del. Laws, c. 336, § 1; 71 Del. Laws, c. 401, § 17; 75 Del. Laws, c. 9, § 1; 83 Del. Laws, c. 132, § 1.)

### § 1121. Powers and duties of Chief Administrative Officer.

(a) The Chief Administrative Officer shall assist the County Executive with duties and responsibilities and, subject to the policies and directives of the County Executive, shall have general supervision over the executive, administrative and operational departments of the County.

(b) The Chief Administrative Officer, on behalf of the County Executive, shall prepare the annual operating budget, capital program, and capital budget as provided by this chapter. The Chief Administrative Officer shall supervise the execution of the budgets and prepare reports and information concerning the status of the financial and other affairs of the County which will keep the County Executive, County Council and the public informed as to all offices, departments, and agencies receiving appropriations from the County Treasury.

(9 Del. C. 1953, § 1121; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 18, 19.)

### § 1122. County executive restructuring power.

The County Executive of New Castle County shall have the power to merge, establish, rename, and modify departments, boards, agencies, commissions, and offices of the county and may prescribe the functions and management systems of all departments, boards, agencies, commissions and offices of the county, subject to approval of County Council. The authority granted pursuant to this section shall supersede any conflicting provisions within this title.

(71 Del. Laws, c. 40, § 1; 71 Del. Laws, c. 401, § 20; 75 Del. Laws, c. 9, § 2.)

## Subchapter III

## Budgeting

I Local Service Functions (83 Del. Laws, c. 7, § 2.)

## § 1125. Local service functions; New Castle County property tax rates in municipalities.

(a) In determining the New Castle County property tax rate for real property in a municipality, New Castle County shall consider the degree that a local service function is fully or partially performed or financially supported by the municipality instead of New Castle County under § 1102 of this title.

(b) New Castle County shall establish a property tax rate for real property in a municipality based on the degree of any local service function fully or partially performed or financially supported by the municipality instead of New Castle County under § 1102 of this title.

(c) A property tax rate for real property in a municipality does not have to be either of the following:

(1) The same as a property tax rate for property located in other municipalities or in the unincorporated area of New Castle County.

(2) The same as a property tax rate set in a prior year.

(d) [Repealed.]

(83 Del. Laws, c. 7, § 3; 83 Del. Laws, c. 7, § 10.)

## § 1126. Local service functions; calculation of net county LSF cost and individual LSF tax rates.

(a) New Castle County shall calculate the net county LSF cost for each local service function. The "net county LSF cost" equals the amount in the New Castle County budget for the local service function for the next fiscal year. The "net county LSF cost" is the amount of direct and indirect costs applicable to that local service function, and excludes service charges, grants, or other revenue or funds that New Castle County directly attributes or otherwise apportions to that local service function.

(b) Except as provided for fire protection under subsection (c) of this section, New Castle County shall convert the net county LSF cost for each local service function into a real property tax rate for each municipality and the unincorporated area by calculating each of the following for each municipality and the unincorporated area:

(1) The "share of New Castle County assessment", which equals the taxable assessed value of all real property within a municipality or the unincorporated area divided by the aggregate taxable assessed value for all real property in the County.

(2) The "New Castle County service percentage" for a municipality, as determined under § 1102 of this title.

(3) The "weighted service share", which equals a municipality's or the unincorporated area's share of New Castle County assessment multiplied by the municipality's or the unincorporated area's New Castle County service percentage.

(4) The "total weighted service amount", which equals the sum of all weighted service shares.

(5) The "final service weight", which equals a municipality's or the unincorporated area's weighted service share divided by the total weighted service amount.

(6) The "apportioned net LSF cost", which equals the municipality's or the unincorporated area's final service weight multiplied by the net county LSF cost.

(7) The "individual LSF tax rate", which equals the municipality's or the unincorporated area's apportioned net LSF cost divided by the taxable assessed value of all real property in the respective municipality or the unincorporated area, adjusted to reflect New Castle County's estimated level of cash receipts.

(c) For fire protection that is partially financially supported but not directly provided by New Castle County and that is also partially financially supported but not directly provided by a municipality, New Castle County shall convert the net county LSF cost into a real property tax rate for each municipality and the unincorporated area that does not directly provide fire protection by calculating all of the following for each municipality and the unincorporated area:

(1) The "service area share", which equals the taxable assessed value of real property within the municipality or the unincorporated area not directly providing fire protection divided by the sum of the taxable assessed value for all real property in the unincorporated area and all municipalities not directly providing fire protection.

(2) The "apportioned gross amount", which equals the service area share multiplied by the net county LSF cost for fire protection.

(3) The "net New Castle County fire protection cost", which is New Castle County's contribution of funds or in-kind services to volunteer fire companies within New Castle County, increased by indirect costs applicable to fire protection and decreased by service charges, grants, or other revenue that New Castle County directly attributes or otherwise apportions to fire protection.

(4) The "credit percentage", which equals the municipality's actual direct contribution of funds or in-kind contributions of goods or services to a volunteer fire company in the previous year, divided by the municipality's apportioned gross amount. The "credit percentage" may not exceed 100%. The "credit percentage" is 0% for the unincorporated area.

(5) The "New Castle County fire protection percentage", which equals 100% minus the municipality's credit percentage. The "New Castle County fire protection percentage" for the unincorporated area is 100%.

(6) The "weighted service share", which equals the municipality's or the unincorporated area's service area share multiplied by the municipality's or the unincorporated area's New Castle County fire protection percentage.

(7) The "total weighted service amount", which equals the sum of the weighted service shares.

(8) The "final service weight", which equals the municipality's or the unincorporated area's weighted service share divided by the total weighted service amount.

(9) The "apportioned net LSF cost", which equals the final service weight multiplied by the net county LSF cost for fire protection.

(10) The "individual fire protection tax rate" which equals the municipality's or the unincorporated area's apportioned net fire protection cost divided by the taxable assessed value of real property in the respective municipality or the unincorporated area, adjusted to reflect New Castle County's estimated level of cash receipts.

(d) New Castle County shall adopt policies and procedures to implement this section.

(83 Del. Laws, c. 7, § 3; 83 Del. Laws, c. 7, § 10.)

## § 1127. Local service functions; change in degree of performance; notice requirements.

(a) By August 1 of each year, a municipality shall provide notice to New Castle County if the municipality intends to begin performing, stop performing, or change the degree of performance of a local service function, other than fire protection, during New Castle County's fiscal year beginning the following July 1.

(b) In the notice under subsection (a) of this section, the municipality shall state with specificity which of the following modifications the municipality intends to make to its performance of the local service function:

(1) Initiating performance.

(2) Ceasing performance.

(3) Changing the degree of performance.

(c) New Castle County may request, and the municipality must provide, additional information that may reasonably be needed to understand the municipality's proposed modification.

(d) (1) A municipality must initiate or cease performance of a local service function under § 1102(c) of this title.

(2) A municipality may change the degree of performance of a local service function that the municipality already performs by providing notice to New Castle County under subsection (a) of this section.

(83 Del. Laws, c. 7, § 10.)

## § 1128. Local service functions; determining the New Castle County service percentage and credit percentage.

(a) (1) [Repealed.]

(2) By July 1 of each year, New Castle County shall provide to each municipality the forms and instructions under paragraph (a)(3) of this section to submit the municipality's request that New Castle County recognize the following:

a. The New Castle County service percentage for a local service function is less than 100% based on the municipality's performance or partial performance of the local service function.

b. In the case of fire protection that a municipality does not provide directly, the municipality's direct contribution of funds or in-kind contribution of goods and services to a volunteer fire company.

(3) New Castle County shall provide a copy of each of the following:

a. New Castle County's budget for the current fiscal year.

b. A standardized form listing each local service function and the documentation necessary to support a request that New Castle County recognize the degree to which the municipality performs or financially supports a local service function instead of New Castle County.

c. Contact information for appropriate representatives that a municipality may contact to discuss relevant financial information of New Castle County and the municipality, and the scope and nature of services provided by both entities.

(b) (1) By September 1 of each year, a municipality shall submit its application and supporting documentation to New Castle County if the municipality is requesting that New Castle County recognize either of the following:

a. New Castle County service percentage less than 100% for any local service function based on the municipality's degree of performance of the local service function.

b. In the case of fire protection that a municipality does not provide directly, the municipality's contribution of funds or in-kind contributions of goods and services to a volunteer fire company.

(2) New Castle County may request, and the municipality must provide, additional information that may reasonably be needed to determine the degree of performance of local service functions provided by the municipality.

(c) (1) By November 1 of each year, New Castle County shall notify each municipality of New Castle County's determination regarding the New Castle County service percentage for each local service function and the dollar amount of direct and in-kind donations that the County will recognize to calculate the individual fire protection rate. A disagreement regarding New Castle County's determination under this paragraph (c)(1) is subject to negotiation between New Castle County and the municipality.

(2) [Repealed.]

(d) (1) a. By December 1 of each year, a municipality that is unable to reach agreement with New Castle County regarding the New Castle County service percentage for a local service function or individual fire protection tax rate under paragraph (c)(1) of this section

may provide notice to New Castle County demanding arbitration that includes the municipality's designated member of the arbitration panel under paragraph (d)(2) of this section. If the municipality does not provide such notice by by December 1, New Castle County's determination is final and may not be appealed.

b. [Repealed.]

(2) If arbitration is demanded under paragraph (d)(1)a. of this section, an arbitration panel will be created which is comprised of 3 members, selected as follows:

a. The municipality's designee.

b. By December 10, the County Executive shall designate a member.

c. By December 20, the arbitration panel designees of the County Executive and the municipality shall jointly select the third member. If the 2 arbitration panel designees cannot agree on the selection of the third member by December 20, the third arbitration panel member is the Chair of the New Castle County Financial Advisory Council or the Chair's designee.

d. The arbitration panel may establish rules for the arbitration hearing, including information required to be produced by a party and deadlines for the submission of evidence.

(3) The arbitration hearing must occur by January 31. At the hearing, New Castle County and the municipality may present testimony, evidence, and oral argument as to the matters in dispute.

(4) [Repealed.]

(5) An arbitration panel shall issue its decision by February 15. An arbitration panel's decision is binding and may not be appealed.

(e) Notwithstanding subsections (a) through (d) and (f) of this section, either of the following may occur:

(1) New Castle County and a municipality may enter into an agreement setting different terms or timing for negotiations, calculations, or approval of the New Castle County service percentages.

(2) New Castle County may determine New Castle County service percentages for a municipality that does not make a request in the manner required under this section. New Castle County's determination under this paragraph (e)(2) is final, may not be appealed, and is not subject to arbitration under subsection (d) of this section.

(f) New Castle County shall adopt policies and procedures to implement this section.

(g) [Repealed.]

(83 Del. Laws, c. 7, § 3; 83 Del. Laws, c. 7, § 10.)

## § 1129. Local service functions; Local Service Function Review Committee.

(a) New Castle County shall create the Local Service Function Review Committee ("Committee") for the purpose of conducting an annual review of this subpart of this subchapter. The Committee must complete the review no later than August 3.

(b) The Local Service Function Review Committee is comprised of the following representatives:

(1) The Chief Financial Officer, or a designee, who serves as chair.

(2) One member of County Council, selected by the County Council.

(3) Two members from municipal governments in New Castle County appointed by the County Council from a list of names provided by the Delaware League of Local Governments.

(4) One member who is a resident of New Castle County and who owns real property in the unincorporated area of New Castle County, appointed by the County Council.

(c) (1) The chair of the Committee must provide the Committee with administrative support, including the preparation and distribution of meeting notices, agendas, minutes, correspondence, and reports.

(2) a. A quorum of the Committee is a majority of its members.

b. Official action by the Committee requires the approval of a quorum of the Committee.

c. The Committee may adopt rules necessary for its operation and may create working subcommittees.

d. The chair of the Committee may invite individuals with relevant expertise to participate in the Committee's discussions.

(d) (1) The Committee shall include all of the following in the annual review under subsection (a):

a. The calculation procedure under § 1126 of this title.

b. The New Castle County service percentage or credit percentage process under § 1128 of this title.

c. Changes to the service functions that are eligible for an individual LSF tax rate under § 1128 of this title.

(2) The Committee's review must include a specific topic under paragraph (d)(1) of this section that is requested by a municipality before June 1 of the current year.

(e) The Local Service Function Review Committee must provide an annual report containing a summary of the review conducted under this section and any recommendations for improvements to all members of the County Council, each municipality in New Castle County, all members of the General Assembly who represent New Castle County, and the Director and the Librarian of the Division of Legislative Services by September 15 of each year.

(83 Del. Laws, c. 7, § 9; 84 Del. Laws, c. 255, § 5.)

II Budgeting (83 Del. Laws, c. 7, § 4.)

## § 1131. Separate budgeting for local service functions performed by the County.

(a) The Chief Administrative Officer and the County Executive, in the preparation of the annual operating budget, shall divide and segregate in a separate budget, entitled Local Service Function Budget, all appropriations for the performance or funding of local service functions by New Castle County within the municipalities and the unincorporated area. The Chief Administrative Officer and the County Executive, in the preparation of the Local Service Function Budget, shall specify separately the total appropriation required for the performance or funding of each local service function by New Castle County.

(b) The County Executive shall submit to the County Council a proposed revenue ordinance which will achieve sufficient revenues to balance the total operating budget, including the Local Service Function Budget. The County Executive in the preparation of the proposed revenue ordinance may not, and the County Council and the County Executive in the enactment of the annual revenue ordinance may not, impose ad valorem taxation on real property within any municipality to pay the cost of New Castle County's performance or funding of any local service function in excess of the individual LSF tax rate or individual fire protection rate.

(c) The County Executive's proposed budget presented to the County Council shall include tables providing all of the following information:

(1) The calculation of the proposed individual LSF tax rate and individual fire protection tax rate for each local service function for each municipality and the unincorporated area.

(2) The proposed aggregate of the individual LSF tax rates and individual fire protection tax rates for each municipality and the unincorporated area.

(d) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

(1) In any instance where a municipality initiates the performance of a local service function without the consent of New Castle County under § 1102 of this title.

(2) For the cost of operation by the County of park and recreational facilities which are not local in nature and which serve the metropolitan area.

(3) To any municipality not expending funds in the previous fiscal year for the given local service function or not adequately performing the local service function.

(e) The Chief Administrative Officer and the County Executive, in the preparation of the annual operating budget, shall divide and segregate in a separate budget entitled General Operating Budget all appropriations not properly allocable to the Local Service Function Budget or other operating budget fund. The County Council, in estimating the revenues which will be necessary for the payment of these appropriations, shall include the estimated revenues to be derived from county-wide ad valorem taxation of real property.

(f) The County Executive in the preparation of the proposed revenue ordinance, and the County Council and the County Executive in the enactment of the annual revenue ordinance, shall uniformly impose ad valorem taxation on real property within the County to pay the cost of the General Operating Budget.

(9 Del. C. 1953, § 1131; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 21-24; 83 Del. Laws, c. 7, § 4; 83 Del. Laws, c. 7, § 5.)

## § 1132. Preparation of the annual operating budget; distribution of budget requests; completed forms; preliminary budget; preliminary budget hearings; operating budget; distribution of operating budget.

(a) The Chief Administrative Officer shall annually, not later than January 1, distribute budget request forms to the County Council and for each office, department, board, or agency which is receiving or seeking to receive an appropriation from the County Council payable from any operating fund of the County.

(b) County Council and the heads of all offices, departments, boards or agencies shall enter upon the budget request forms requests for appropriations for the ensuing year and such supporting information as the Chief Administrative Officer shall have specified. The Chief Administrative Officer shall establish deadlines for the presentation of completed forms by such time and in such manner as necessary for the timely preparation and presentation of the annual operating budget.

(c) The Chief Administrative Officer shall prepare a preliminary budget for the consideration of the County Executive. The preliminary budget shall include all budget requests, the recommendations of the Chief Administrative Officer with respect to each request, an estimate of the receipts from each source of revenue, and a statement of the total estimated income and the total recommended expenditures for each operating fund.

(d) The County Executive shall review the preliminary budget and may hold hearings thereupon at which the head of all offices, departments or boards may be given an opportunity to be heard with respect to their requests. The Chief Administrative Officer shall thereupon prepare the operating budget as directed by the County Executive. The operating budget shall be presented to the County Council by the County Executive, together with a budget message outlining the County Executive's reasons for the requested appropriations, and shall be accompanied by proposed revenue and operating budget ordinances to give effect to the budget as presented. If the estimated revenue from existing sources is deemed by the County Executive to be insufficient to balance the budget, the County Executive shall recommend revenues sufficient to achieve a balanced budget.

(e) The proposed ordinance for the operating budget shall provide appropriations in a lump sum under the following classes for each office, department, or board to which appropriations are made:

(1) Personal services of officers and employees;

(2) Contractual services;

(3) Training;

(4) Communications and utilities;

(5) Materials and supplies;

(6) Equipment;

(7) Grants and fixed charges;

(8) Debt services;

(9) Such other general classes as the County Executive or the County Council may annually establish.

(f) The operating budget and the proposed revenue and operating budget ordinances shall be submitted to the County Council not later than April 1. Sufficient copies of the operating budget shall be supplied by the County Executive to the Clerk of the County Council for distribution to members of the County Council and to interested citizens.

(9 Del. C. 1953, § 1132; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 15, 25-27; 83 Del. Laws, c. 7, § 4.)

## § 1133. Administration and enforcement of the operating budget ordinance; adoption of operating budget; allocations and allotments; approval of allocations and allotments; revisions.

(a) The adoption of the operating budget ordinance is an appropriation of the sum specified in the budget for the purpose and from the funds indicated. The appropriation is valid only for the year for which it is made, and any part of an appropriation which is not encumbered or expended lapses at the end of the year.

(b) Following the adoption of the operating budget ordinance, the Chief Administrative Officer shall determine, with the approval of the County Executive, such allocation or allotment procedures as deemed appropriate for a proper administration of the budget. The head of each office, department, or board shall submit to the Chief Administrative Officer such work programs and requests for allocations and allotments as deemed appropriate for the most efficient and effective operation of each office, department or board.

(c) The approval of such allocations and allotments, in the amounts submitted or in amended amounts approved by the County Executive, shall constitute budgetary allocations and allotments which shall be binding upon such office, department, or board, and the Department of Administration shall not approve nor issue any requisition, purchase order, voucher, or check that is not in accordance with such allocation or allotment.

(d) The allocations and allotments provided in this section may be altered at the direction of the County Executive. The County Executive shall direct appropriate revisions in allocations and allotments to keep expenditures within the revenues received or anticipated.

(9 Del. C. 1953, § 1133; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 28-31; 83 Del. Laws, c. 7, § 4; 83 Del. Laws, c. 7, § 5.)

## § 1134. Preparation of the capital program and the capital budget; preparation by Chief Administrative Officer; recommendation by County Executive; action by County Council.

(a) The Chief Administrative Officer shall annually prepare a capital program and a capital budget under the direction of the County Executive. In the course of the preparation of the capital program, the Chief Administrative Officer shall confer with the Department of Land Use to ascertain that the proposed capital program is in accordance with the comprehensive development plan prepared by the Department of Land Use.

(b) No later than April 1 of each year, the County Executive shall recommend to the County Council, a capital program for the ensuing 6 years and a capital budget for the ensuing year. Not later than the date that the program is submitted to County Council, the County Executive shall submit the capital program to the Department of Land Use for its review and recommendations to County Council. The County Executive shall also submit the capital program to the Planning Board for the sole purpose of determining if it is in accordance with the comprehensive development plan.

(c) The proposed capital program, and the proposed capital budget, must have the content and be in the form necessary to enable the County Council to take action as required under § 1159 of this title.

(d) (1) The County Executive, in the preparation of the capital budget, may not include in the revenue estimates any estimated revenues to be derived from ad valorem taxation of real property within a municipality for any capital appropriation including debt service which is related to the performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(2) The County Council, in the adoption of the capital budget by ordinance, may not impose ad valorem taxation on real property within a municipality for the payment of the cost of any capital appropriation, including debt service, which is related to the performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(3) The provisions of this subsection are not applicable to capital appropriations, including debt service, for the acquisition by the County of park and recreational facilities which are not local in nature and which serve the metropolitan area.

(e) The County Executive and the County Council, in the adoption of a capital budget by ordinance, shall uniformly impose ad valorem taxation on real property within the County for the payment of the cost of any capital appropriation, including debt service, except for costs related to the performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(9 Del. C. 1953, § 1134; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 32-34; 83 Del. Laws, c. 7, § 4; 83 Del. Laws, c. 7, § 5.)

## § 1135. Administration of the capital budget.

The Chief Administrative Officer, under the supervision of the County Executive, shall be responsible for the administration of the capital budget as adopted by ordinance. The Chief Administrative Officer shall cause each office, department or board to take necessary action to provide for the prompt and efficient execution of the capital budget.

(9 Del. C. 1953, § 1135; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 35; 83 Del. Laws, c. 7, § 4.)

## § 1136. Fiscal year.

The fiscal year of the County shall commence on July 1 of each year and conclude upon June 30 of the following year.

(9 Del. C. 1953, § 1136; 55 Del. Laws, c. 85, § 1; 83 Del. Laws, c. 7, § 4.)

## § 1137. Encumbrance defined.

For the purpose of this subchapter, the term “encumbrance” shall mean a commitment for expenditure of an appropriation evidenced by a valid purchase order, similar document or process for the acquisition of supplies, material, work or services.

(9 Del. C. 1953, § 1137; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 36; 83 Del. Laws, c. 7, § 4.)

## § 1138. Budgets for grants.

The County Council may accept federal, state, and private grant funds. The Chief Administrative Officer shall submit to the County Council a budget, which shall not be part of the General Operating Budget or of the Capital Budget, for the expenditure of each such grant. Approval of such a budget shall constitute an appropriation of the sum specified therein for the purpose indicated. Such appropriation shall be considered valid until the funds are expended. The Chief Administrative Officer under the supervision of the County Executive shall be responsible for the administration of grant budgets.

(60 Del. Laws, c. 219, § 1; 71 Del. Laws, c. 401, §§ 15, 37; 83 Del. Laws, c. 7, § 4.)

# Subchapter IV

# County Council

## § 1141. Number and term.

(a) For any general or special election prior to and including the general election of 2002, the County Council shall consist of 7 members. Six of these members shall be elected from council districts. The seventh member shall be elected at large from New Castle County and shall serve as President of County Council.

(b) Notwithstanding any law to the contrary, except for the President of County Council, the terms of officials of the county governing body elected in the 1998 general election and any special election held after the 1998 general election but prior to the 2002 general election shall terminate on the first Wednesday in November following the 2002 general election. Notwithstanding any law to the contrary, the terms of the officials of the county governing body elected in the 2002 general election and any special election held following the 2002 general election to fill a vacancy in a seat elected in the 2002 general election shall terminate on the first Wednesday in November following the 2006 general election. The President of County Council shall always be elected in the presidential election year.

(c) Notwithstanding any law to the contrary, following the 2002 general election, and to become effective with the 2004 general election and all subsequent elections, the County Council shall consist of 13 members. Twelve of these members shall be elected from council districts. The thirteenth member shall be elected at large from New Castle County and shall serve as the President of the County Council.

(d) Notwithstanding any law to the contrary, for the 2004 general election, the County Council shall reapportion the county into 12 council districts. This reapportionment shall split each existing council district into 2 districts or as close thereto as is possible pursuant to the terms of § 1165 of this title. This reapportionment shall further be conducted in the manner specified in § 1165 of this title using the 2000 United States Decennial Census. This reapportionment shall be completed on or before January 1, 2004. The 6 members elected in the 2002 general election shall continue to hold office, until their terms expire pursuant to subsection (b) of this section. Six additional members shall be elected from the districts newly created pursuant to § 1165 of this title. Notwithstanding any law to the contrary, the terms of the officials of the county governing body elected in the 2004 general election and any special election held thereafter to fill a vacancy in a seat elected in the 2004 general election, shall terminate on the 1st Wednesday in November following the 2008 general election.

(e) An elected official shall take office on the first Wednesday in November following the general election.

(9 Del. C. 1953, § 1141; 55 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 264, §§ 1-4; 57 Del. Laws, c. 303, §§ 1-3; 70 Del. Laws, c. 568, § 1; 70 Del. Laws, c. 569, § 1; 71 Del. Laws, c. 172, § 1; 71 Del. Laws, c. 198, §§ 1, 4-7, 11, 12; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 414, § 1; 73 Del. Laws, c. 30, §§ 1, 4.)

## § 1142. Qualifications.

Elected officials of the County Council shall be citizens of the United States and qualified electors of the County. They shall be residents of the district from which they are elected or, in the event of redistricting, of the district as adjusted for at least 1 year prior to their election. Such officials must not be less than 24 years old when elected to office. The County Council shall be the judge of the qualifications of its members.

(9 Del. C. 1953, § 1142; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 38.)

## § 1143. Prohibitions.

Except where authorized by law, no elected official of the County Council shall hold any other county office or employment with the County Council during the term for which such official was elected to the County Council. No former elected official shall hold any compensated appointed county office or employment until 1 year after the expiration of the term for which such official was elected to the County Council.

(9 Del. C. 1953, § 1143; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 15, 39.)

## § 1144. Salary.

The annual salary of elected officials of County Council shall be $30,000 for the president of Council and $27,500 for the other members of Council and may be changed by ordinance or upon a recommendation by the New Castle County Compensation Commission which has been adopted and ordained by County Council, except that no increase shall be effective for any such official whose term will expire within 6 months from the time enactment of such ordinance. Such officials shall receive their actual and necessary expenses incurred in the performance of their duties of office.

(9 Del. C. 1953, § 1144; 55 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 264, § 5; 57 Del. Laws, c. 303, § 4; 59 Del. Laws, c. 458, § 1; 71 Del. Laws, c. 401, § 40.)

## § 1145. President of the County Council; President pro tempore.

(a) At the general election on November 8, 1966, and each fourth year thereafter, a President of the County Council shall be elected at large from New Castle County, except that if such first general election is in a nonpresidential election year, then the President of the County Council thus elected shall serve a term of 2 years and thereafter shall be elected each fourth year in a presidential election year. The President of the County Council shall preside over meetings of the County Council and shall have the same rights and duties including the right to vote and speak therein as other members.

(b) The County Council shall elect by majority vote from among its members a President pro tempore of the county government who shall, during the absence of the President or a vacancy in the office, assume its rights and duties.

(9 Del. C. 1953, § 1145; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1146. Powers of County Council.

All legislative powers of the County shall be vested in the County Council, except as otherwise provided by this title or other laws of this State, and the County Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the County by law.

(9 Del. C. 1953, § 1146; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1147. Vacancies.

(a) The office of an elected official of the County Council shall become vacant upon the official's death, resignation, removal from office in any manner authorized by law, or forfeiture of the office. The office shall be deemed to have been forfeited should the incumbent at any time during the incumbent's term of office:

(1) Lack any qualifications for the office prescribed by this subchapter or other law of the State, including residence in the district from which the official was elected;

(2) Violate any express prohibition of this title; or

(3) Be convicted of a crime involving moral turpitude.

(b) Whenever a vacancy in County Council occurs for any reason, within 10 days following the creation of the vacancy, the President of County Council shall deliver to the Department of Elections for New Castle County a writ of election reporting the existence of the vacancy and requesting that a special election be scheduled to fill the same.

(c) On the next day after receiving a writ of election, unless the same shall be Sunday and then on the Monday next following, the Department of Elections for New Castle County shall post a proclamation reciting the writ and appointing a day for holding a special election, and the Council member or members to be chosen, at the following locations:

(1) On the outside of the door of the New Castle County Courthouse;

(2) On the internet; and

(3) In at least 5 public places in the council district for which it received a writ of election.

(d) (1) *President of County Council.* — If the Department of Elections for New Castle County receives a writ of election reporting the existence of a vacancy in the Office of President of the County Council then, no more than 45 days after posting said proclamation pursuant to subsection (c) of this section, it shall hold a special election to fill such vacancy; provided, however that:

a. If the special election to fill the vacancy must be scheduled pursuant to this section within the 45 days immediately following another special election, the special election to fill the vacancy shall be held on the forty-fifth day following the previous special election; and

b. If the special election to fill the vacancy must be scheduled pursuant to this section on a Saturday, Sunday or legal holiday, said special election shall be held on the first business day thereafter.

(2) Notwithstanding paragraph (d)(1) of this section:

a. In the year of a general election, if a vacancy occurs in the Office of President of the County Council on or after June 1 but before August 20 of that year, the special election to fill such vacancy shall be held that year on the day of the general election;

b. In the year of a general election in which the Office of President of the County Council is not on the general election ballot, if a vacancy occurs in the Office of President of the County Council on or after August 20 of that year but before the date of the general election, the special election to fill such vacancy shall be held that year on the forty-fifth day following the general election, or within 1 week thereafter.

(e) (1) *Council Members other than President.* — If the Department of Elections for New Castle County receives a writ of election reporting the existence of a vacancy on New Castle County Council other than in the Office of President of the County Council then, no more than 30 days after posting said proclamation pursuant to subsection (c) of this section, it shall hold a special election to fill such vacancy; provided, however that:

a. If the special election to fill the vacancy must be scheduled pursuant to this section within the 30 days immediately following another special election, the special election to fill the vacancy shall be held on the thirtieth day following the previous special election.

b. If the special election to fill the vacancy must be scheduled pursuant to this section on a Saturday, Sunday or legal holiday, said special election shall be held on the first business day thereafter.

(2) Notwithstanding paragraph (e)(1) of this section:

a. In the year of a general election, if the vacancy occurs on or after July 1 but before August 20 of that year, the special election to fill such vacancy shall be held that year on the day of the general election;

b. In the year of a general election in which the vacated office is not on the general election ballot, if the vacancy occurs on or after August 20 of that year but before the date of the general election, the special election to fill such vacancy shall be held that year on the thirtieth day following the general election, or within 1 week thereafter.

(f) Any political party eligible to have a candidate listed on a ballot in the most recent general election preceding the creation of the vacancy may select a candidate to be listed on the ballot for the special election. Candidate names must be received by the Department of Elections for New Castle County no more than 10 days following the date on which the Department posts its proclamation reciting the writ of election and appointing a day for holding a special election. The candidate for a political party shall be selected by the county chair of that party, or in the event that a county chair does not exist, then by the party's state chair.

(g) To the greatest extent feasible, the Department of Elections for New Castle County will use the same polling places as used in a general election; provided, however, that the department may require voters from multiple election districts to use a single polling place and, in the event a normal polling place is not available to be used on the day of the special election, may use as polling places buildings which are not normally used as polling places.

(h) The Department of Elections for New Castle County will appoint election officers as necessary to conduct the special election.

(i) Except as provided in this section, special elections conducted to fill a vacancy in County Council shall be provided for, opened, held, conducted and closed and the result thereof ascertained and certified in the same manner and subject to the same laws, as far as the same may be applicable, as are prescribed for the general election; provided, however, that the provisions of § 4980(b) of Title 15 shall not apply to any special election held pursuant to this section, nor shall that section interfere with the conduct of a special election held pursuant to this section. Ballots for any special election conducted on the date of a general election pursuant to this section shall be merged with the general election ballots for that date and the 2 elections shall be conducted as a single, general election.

(j) The Superior Court for New Castle County, as constituted under article V, § 6 of the Delaware Constitution, shall at 10 a.m. on the second day after a special election conducted in accordance with this section convene and perform its duties prescribed by the Delaware Constitution with reference to the special election, at the same place, with the same powers and in the same manner as for a general election. If the second day after a special election is a Saturday, Sunday or legal holiday, the canvass of the special election shall commence at 10 a.m. on the first business day thereafter.

(k) A candidate elected pursuant to this section shall immediately upon certification of election take office and shall serve until the expiration of the term.

(l) Unless otherwise provided by the laws of this State, all necessary costs and expenses, including the compensation of election officers, incurred in carrying into effect a special election pursuant to this section, except those that have merged with the general election pursuant to subsections (d) and (e) of this section, shall be paid by New Castle County.

(9 Del. C. 1953, § 1147; 55 Del. Laws, c. 85, § 1; 58 Del. Laws, c. 563; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 15, 41; 75 Del. Laws, c. 174, § 1.)

## § 1148. Clerk of County Council.

The County Council shall appoint a Clerk of County Council who shall keep the journal of its proceedings, and perform such other duties as are assigned to the Clerk by this title or by the County Council. The County Council may provide for employees to serve in the office of the Clerk of County Council.

(9 Del. C. 1953, § 1148; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1149. Investigations; refusal to obey; penalties.

(a) The County Council may make investigations into the affairs of the County and the conduct of any county department, office or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of pertinent evidence of any kind. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the County Council shall be punishable in accordance with a schedule of fines and imprisonment established by the County Council. In no event shall a fine exceed $500 and an imprisonment shall not exceed 1 year.

(b) The Superior Court shall have exclusive original jurisdiction over offenses under this section.

(9 Del. C. 1953, § 1149; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1150. Procedure.

(a) The County Council shall meet regularly at least twice in each month; provided, however, that by vote of a majority of the members of Council, Council may adjourn for not more than 1-month vacation each calendar year. The place, dates and times of regular meetings and the places of special meetings shall be established by the County Council as a part of the rules of procedure adopted for the conduct of its meetings. Special meetings may be held on call of the President of County Council or of a majority of the members of the County Council in accordance with rules adopted as a part of the rules of procedure of the County Council. All meetings shall be public. Official county business transacted by the County Council shall be in the public meetings.

(b) The County Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings which shall be a public record.

(c) Voting, except on procedural motions, shall be by alphabetical roll call and the ayes and nays shall be recorded in the journal. A majority of all members of the County Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner, and subject to the penalties, prescribed by the rules of the County Council. No action of the County Council, except as otherwise provided in this title, shall be valid or binding unless adopted with the concurrence of a majority of all the members of the County Council.

(d) Pursuant to the authority granted to the government of New Castle County in § 1101 of this title, the County Council may by ordinance impose upon itself a super-majority voting requirement in addition to any super-majority requirement imposed by state law.

(9 Del. C. 1953, § 1150; 55 Del. Laws, c. 85, § 1; 60 Del. Laws, c. 131, § 1; 66 Del. Laws, c. 106, § 1; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 432, § 1.)

## § 1151. Action required by ordinance.

All actions of the County Council which shall have the force of law shall be by ordinance.

(9 Del. C. 1953, § 1151; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1152. Ordinances generally.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance, except those relating to the budget or appropriation of funds and those relating to the adoption or revision of the County Code shall contain more than 1 subject which shall be clearly expressed in its title. The enacting clause shall be “The County of New Castle hereby ordains.” Any ordinance which repeals or amends an existing ordinance or part of the County Code shall set out in full that part of the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) An ordinance may be introduced by any member at any regular or special meeting of the County Council. Upon introduction of any ordinance, the Clerk of County Council shall distribute a copy to each elected official of the county governing body and to the County Executive; shall file a reasonable number of copies in the office of the Clerk of County Council and such other public places as the County Council may designate; shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon by the County Council and shall produce a sufficient number of copies thereof to meet reasonable demands therefor by interested citizens and others who may be affected by such ordinance. The public hearing shall follow the publication by at least 1 week; may be held separately or in connection with a regular or special County Council meeting and may be adjourned from time to time, and all persons interested

shall have a reasonable opportunity to be heard. The County Council may make rules governing the holding of public hearings. After the public hearing the County Council may adopt the ordinance with or without amendments or reject it, but if it is amended as to any matter of substance which is not embraced within the title of the ordinance, the County Council may not adopt it until the ordinance or its amended sections have been subjected to all of the procedures hereinbefore required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Clerk of County Council shall number the ordinance and have it published again, together with a notice of its adoption.

(c) Except as otherwise provided in this title, every adopted ordinance shall become effective at the expiration of 30 days after adoption, unless the ordinance itself stipulates a different date.

(d) As used in this section, the term "publish" means to print in 1 or more newspapers of general circulation in the County:

(1) The ordinance or the title thereof;

(2) The places where copies of the ordinances have been filed, the times when they are available for public inspection, and the place and the cost at which copies may be procured.

(9 Del. C. 1953, § 1152; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1153. Procedure for amendments to Zoning Code.

(a) All amendments to the Zoning Code shall be by ordinance. Not more than 3 days after the introduction of an ordinance amending the Zoning Code, the County Council shall refer it to the Department of Land Use and the Planning Board for recommendation.

(b) Within 45 days the Department of Land Use and the Planning Board shall deliver its recommendation to the County Council who shall again publish the ordinance and establish a time and place at which a public hearing shall be held, provided that the County Council may by its rules and regulations require persons interested in the proposed ordinance to give it advance notice of intent to be heard thereupon. Upon the failure of the Department of Land Use and the Planning Board to deliver its recommendation to the County Council within 45 days, the County Council may proceed as provided in this subsection.

(9 Del. C. 1953, § 1153; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 42.)

## § 1154. Procedure for adoption of official map.

(a) At the time of the presentation of the proposed official map or amendments thereto, an ordinance shall be introduced into the County Council for adoption of such map or amendment thereto.

(b) Not less than 30 days prior to the adoption of the ordinance, the County Council shall have given notice to the owner of any property affected by any line of a proposed street or any change in the line of any existing street. Such notice shall be by registered mail to the owner of record at the owner's last known address and by publication in a newspaper of general circulation in the County.

(c) Prior to the adoption of the official map, the County Council shall advise the Department of Transportation of any proposed new street, or of the proposed change in the lines of any existing street. The County Council shall not proceed with the adoption of the ordinance until the Department has approved the proposed new street, or changes in the lines in existing streets, provided that the approval of the Department shall be presumed should the County Council have received no communication to the contrary within 30 days of submission of the proposed new street or change in the lines of existing streets, to the Department.

(9 Del. C. 1953, § 1154; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1155. Consideration and adoption of the annual operating budget ordinance.

(a) The County Council, upon receipt of the operating budget, shall immediately publish a notice in a newspaper of general circulation in the County, setting forth all of the following:

(1) A summary of the estimated revenues and appropriations.

(2) The detail of recommended new sources of revenue or increased rates of existing taxes, licenses, fees, or other revenue.

(3) The website address where a copy of the budget may be located and identification of the pages of the budget on which a listing of all individual LSF tax rates and individual fire protection tax rates for each municipality may be found.

(4) That copies of the budget are available upon request at the office of the Clerk of County Council.

(5) The date, time, and place at which the County Council will commence its public hearings upon the proposed budget, which may not be less than 10 days after the date of publication of such notice.

(b) The County Council, upon conclusion of its public hearings but not later than June 1, shall enact the operating budget ordinance. The County Council may increase, decrease, or delete any item of appropriation recommended by the County Executive, and may add new items of appropriation.

(c) No amendment to the operating budget ordinance shall increase the aggregate of authorized appropriations to an amount greater than the estimate of revenue for the corresponding period.

(d) (1) The County Council, in the adoption of the annual operating budget ordinance, shall divide and segregate in a separate budget, entitled Local Service Function Budget, all appropriations for the performance or funding of local service functions by New Castle County within the municipalities and unincorporated area.

(2) The County Council, in estimating the revenues for the payment of the cost of each such local service function, may not include in the estimate any estimated revenues to be derived from ad valorem taxation of real property within any municipality. related to the

performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(e) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

(1) In any instance where a municipality initiates the performance of a local service function without the consent of New Castle County under § 1102 of this title.

(2) For the cost of operation by the County of park and recreational facilities which are not local in nature and which serve the metropolitan area.

(3) To any municipality not expending funds in the previous fiscal year for the given local service function or not adequately performing the local service function.

(f) County Council, in the adoption of the annual operating budget ordinance, shall divide and segregate in a separate budget, entitled General Operating Budget, all appropriations not properly allocated to the Local Service Function Budget or other operating budget funds. County Council, in estimating the revenues necessary for the payment of these appropriations, shall include the estimated revenue to be derived from county-wide ad valorem taxation of real property.

(9 Del. C. 1953, § 1155; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 43-45; 83 Del. Laws, c. 7, § 6.)

## § 1156. Submission of ordinance to County Executive.

(a) No ordinance shall be considered as officially adopted until it has been signed by the County Executive or has become effective without the signature of the County Executive as provided in this section.

(b) Every ordinance approved by the County Council shall be signed by the President of the County Council and presented forthwith to the County Executive.

(c) If the County Executive approves an ordinance presented to him or her, the County Executive shall sign it and return it to the Clerk of the County Council and the ordinance shall take effect in 30 days unless a different effective date is specified in the ordinance.

(d) If the County Executive disapproves a presented ordinance, the County Executive shall return it to the Clerk of County Council with any objections stated in writing, and the Clerk of County Council shall present the same with such objections to the County Council at its next regular meeting, and such objections shall be entered upon the journal of the County Council. The County Council may, within 30 days thereafter, reconsider the same; if after such reconsideration $^{5}/_{7}$ of all of the members of the County Council in office prior to the first Tuesday following the 2004 general election and $^{10}/_{13}$ of all of the members of the County Council thereafter shall vote to pass the ordinance, the same shall take effect notwithstanding the objections of the County Executive, unless a greater number of members are necessary according to the provisions of this subchapter for the original passage of the ordinance, in which case unless as many members as are requisite for the original passage of the ordinance shall vote to pass the ordinance, it shall not take effect. If any ordinance shall not be returned by the County Executive to the office of the Clerk of County Council within 10 calendar days after it shall have been presented to the County Executive, or if such ordinance shall be returned after the 10-day period without the County Executive's approval, the same shall take effect in like manner as if the County Executive had approved and signed it.

(e) The County Executive may disapprove or reduce any item or items of appropriation in any ordinance except for the following:

(1) Items prescribing salaries established by state law or prescribed by this title;

(2) Items appropriating funds for the purpose of auditing or investigating any part or all of the executive or administrative agencies of the County;

(3) Items for payment of principal and interest on the public debt;

(4) Items relating to the internal operating expenses of the County Council.

(f) Subject to the exceptions in subsection (e) of this section, the approved part or parts of any ordinance making appropriations shall become a law, and the part or parts disapproved, or the item or items reduced, shall not become law unless passed by the County Council over the veto of the County Executive as provided in subsection (d) of this section.

(9 Del. C. 1953, § 1156; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 569, § 2; 71 Del. Laws, c. 198, § 8; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 414, § 2.)

## § 1157. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the County Council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except to issue emergency notes as provided by law. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least $^{5}/_{7}$ of all of the members of the County Council in office prior to the first Tuesday following the 2004 general election and $^{10}/_{13}$ of all the members of the County Council thereafter shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon its adoption or at such later time as it may specify. Every emergency ordinance, except 1 made for the issuance of

emergency notes, shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(9 Del. C. 1953, § 1157; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 569, § 3; 71 Del. Laws, c. 198, § 9; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 414, § 3.)

## § 1158. Budget of revenues.

(a) The County Council, at the meeting at which the annual operating budget ordinance is adopted, and within the limits of its power and subject to other provisions of this title, shall ordain such taxes and other revenue measures as will yield sufficient revenue, which, together with any available surplus, will balance the budget.

(b) The County Council shall estimate revenues only upon the basis of the cash receipts anticipated for the fiscal year.

(c) The County Executive shall certify the estimated yield from each item of revenue and of the amounts of surplus to be used in the balancing of the budget to the County Council.

(d) The annual operating budget ordinance is not effective until the County Council has adopted revenue measures which, together with the available surplus, are in the opinion of the County Executive, estimated to yield sums at least sufficient to balance the proposed appropriations. The Office of Finance may not approve any expenditure under any portion of an annual operating budget ordinance until such balancing shall have been provided.

(e) County Council, in the enactment of the annual revenue ordinance or other revenue measures, may not impose ad valorem taxation on real property within any municipality to pay the cost of New Castle County's performance or funding of any local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(f) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

(1) In any instance where a municipality initiates the performance of a local service function without the consent of New Castle County under § 1102 of this title.

(2) For the cost of operation by the County of park and recreational facilities which are not local in nature and which serve the metropolitan area.

(3) To any municipality not expending funds in the previous fiscal year for the given local service function or not adequately performing the local service function.

(g) County Council, in the enactment of the annual revenue ordinance or in the enactment of other revenue measures, shall uniformly impose ad valorem taxation on real property within the County and pay the cost of the General Operating Budget.

(9 Del. C. 1953, § 1158; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 46-49; 83 Del. Laws, c. 7, § 6.)

## § 1159. Capital program and capital budget.

(a) County Council shall adopt a capital program and adopt a capital budget before, or at the same meeting as, it adopts the annual operating budget.

(b) The capital program shall detail all permanent physical improvements, including the acquisition of real estate, that are planned to be financed, in whole or in part, from funds that are, or may become, subject to control or appropriation by the County Council during each of the ensuing 6 years. For each separate project there shall be shown the amount and the source of money that has been expended or encumbered, or is to be expended or encumbered before the next fiscal year, and also the amount and the sources of money planned to be expended during each of the ensuing 6 years.

(c) The County Council may not amend the capital program as submitted to it by the County Executive, until it has received from the County Executive recommendations with respect to the proposed amendment. The County Council is not bound by the County Executive's recommendations and may act without them if they are not received within 15 days from the date they are requested.

(d) The Capital Budget Ordinance shall show the total capital appropriations.

(e) Amendments to the Capital Budget Ordinance must conform to the pertinent portions of the capital program in its original or amended form.

(f) (1) The County Council, in the adoption of the Capital Budget Ordinance, may not include in the revenue estimates, any estimated revenues to be derived from ad valorem taxation of real property within a municipality for any capital appropriation, including debt service, which is related to the performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(2) The County Council, in the adoption of the Capital Budget Ordinance, may not impose ad valorem taxation on real property within a municipality for the payment of the cost of any capital appropriation, including debt service, which is related to the performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for that local service function.

(3) New Castle County may also impose ad valorem taxation on real property within any municipality as follows:

a. In any instance where a municipality initiates the performance of a local service function without the consent of New Castle County under § 1102 of this title.

b. For capital appropriations, including debt service, for the acquisition by the County of park and recreational facilities which are not local in nature and which serve the metropolitan area.

c. To any municipality not expending funds in the previous fiscal year for the given local service function or not adequately performing the local service function.

(g) The County Council, in the adoption of a capital budget by ordinance, shall uniformly impose ad valorem taxation on real property within the County for the payment of the cost of any capital appropriation, including debt service, which is not related to the performance or funding by the County of a local service function in excess of the individual LSF tax rate or individual fire protection rate for the local service function.

(9 Del. C. 1953, § 1159; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 50, 51-54; 83 Del. Laws, c. 7, § 6.)

## § 1160. Unrestricted use of present revenues [Repealed].

(9 Del. C. 1953, § 1160; 55 Del. Laws, c. 85, § 1; repealed by 83 Del. Laws, c. 7, § 6, effective Jan. 1, 2022.)

## § 1161. Authentication, recording, codification, and reproduction of ordinances.

(a) The Clerk of County Council shall authenticate by signature, and record in full in a properly indexed book kept for the purpose, all ordinances and resolutions adopted by the County Council.

(b) Within 3 years after the commencement of the system of government provided in this chapter and at least every 10 years thereafter, the County Council shall provide for the preparation of a general codification of all county ordinances having the force and effect of continuing law. The general codification shall be adopted by the County Council by ordinance and shall be published promptly in bound or loose-leaf form, together with pertinent provisions of the Delaware Code and any amendments thereto, pertinent provisions of the Constitution and other laws of this State applicable to New Castle County, and such codes of technical regulations and other rules and regulations as the County Council may specify. This compilation shall be known and cited officially as the New Castle County Code. Copies of the County Code shall be furnished to county officers, departments and boards, placed in libraries and public offices for free public reference, and made available for purchase by other persons at a reasonable price fixed by the County Council.

(c) The County Council shall cause each ordinance having the force and effect of law, and each amendment to state law affecting the County, to be reproduced promptly following its adoption; and the reproduced ordinances, and the amendments to state law, shall be distributed or sold to any person at reasonable prices to be fixed by the County Council. Subsequent to the publication of the first New Castle County Code, the ordinances and the amendments to state law shall be printed or reproduced in substantially the same style as the County Code currently in effect and shall be suitable in form for integration therein. The County Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in, or additions to, the provisions of the Constitution and other laws of this State or the codes of technical regulations included in the County Code.

(9 Del. C. 1953, § 1161; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, § 15.)

## § 1162. Adoption of pay plans.

(a) All persons employed by the County or by any of its boards, whether as officers or otherwise, and paid either in part or in whole from appropriations made by the County Council, except those whose compensation is fixed by state law, shall be compensated only in accordance with pay plans adopted by the County Council.

(b) Not more than 15 days after receipt from the County Executive of any recommendation of measures for the establishment or amendment of a pay plan or portions thereof, the President of County Council shall introduce an ordinance for the adoption of such recommendations. Not later than 60 days after the receipt of such recommendations, the County Council shall adopt them as submitted or in such amended form as the County Council shall provide. Should the County Council fail to act upon such recommendations within such 60-day period, its approval shall be presumed and the recommended pay plan or amendment thereto shall become effective as recommended.

(9 Del. C. 1953, § 1162; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 55.)

## § 1163. Creation of debt.

(a) (1) The County Council shall exercise all power vested in the Levy Court of New Castle County prior to January 3, 1967, in connection with the creation of debt, and in addition, shall have the power to authorize the issuance of bonds of New Castle County to finance the cost of any object, program or purpose for which New Castle County, or any officer, department, board or agency thereof, is by this title or by any other law, authorized to raise, appropriate or expend money, or for the implementation and performance of functions, programs and purposes specified in this title, or in any other law, applicable to New Castle County; provided, however, that the County Council shall not have authority to create or to authorize the creating of any bonded indebtedness for the following purposes: The payment of any operating expenses; the payment of any judgment resulting from the failure of the County to pay any item of operating expense; the payment for any equipment or any public improvement of a normal life of less than 3 years. The foregoing limitations shall not apply should the County Council unanimously declare the existence of an emergency due to public calamity.

(2) The powers conferred by this chapter shall be in addition to and not in substitution for or in limitation of the powers conferred by any other law. Bonds may be issued under this section for any object or purpose for which the County is by this chapter or any other law authorized to raise or appropriate or expend money notwithstanding that any other law may provide for the issuance of bonds for

the same or like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds may be issued under this chapter notwithstanding any debt or other limitation prescribed by any other law, and the mode and manner of procedure for the issuance of bonds and the adoption of the ordinance authorizing issuance of the bonds under this chapter need not conform to the provisions of any other law or any other provision of this chapter.

(3) Bonds issued pursuant to this chapter shall be authorized by an ordinance passed by the County Council with the concurrence of $^{5}/_{7}$ of all of the members elected to the County Council. However, when County Council has more than 7 members, bonds issued pursuant to this chapter shall be authorized by an ordinance passed by the County Council with the concurrence of $^{3}/_{4}$ of all the members elected to the County Council. Each such ordinance shall state in brief and general terms the objects or purposes for which the bonds are to be issued and the maximum aggregate principal amount of bonds to be issued for each such object or purpose. Such ordinance, or a subsequent resolution of the County Council, shall specify, or may delegate authority to the County Executive to determine, the following: The date or dates of such bonds; the maturity of such bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements, if any; due dates of the interest thereon; the form of such bonds; the denominations and designation of such bonds; registration, conversion and transfer privileges; provisions for redemption prior to maturity, if any, with or without premium; limitations with respect to the interest rate or rates on such bonds; the times and place or places within or without this State for the payment of the principal of or interest on the bonds; the method of execution of the bonds; provisions for the consolidation of bonds authorized for several objects and purposes pursuant to 1 or more ordinances into 1 consolidated issue; provisions for the receipt and deposit or investment of the good faith deposit pending delivery of such bonds; provisions for the public or private sale of the bonds as hereinafter provided; provisions for the replacement of lost, stolen, mutilated or destroyed bonds; and such other terms and conditions of such bonds and of the issuance and sale thereof as the County Council may determine to be in the best interests of the County. Debt incurred by the County Council pursuant to this chapter may be represented by uncertificated obligations of the County Council which may be authorized in accordance with the same procedures applicable to bonds which are permitted to be issued under this chapter, and the County Council by resolution may determine, or it may delegate authority to the County Executive to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(4) The bonds authorized by each ordinance shall mature as may be determined by the County Council but in any event not later than 30 years after the date of the bonds; provided, however, that the last maturity of bonds issued to finance any single water, sewer or wastewater improvement costing over $5,000,000 may mature not later than 40 years after the date of such bonds.

(5) Bonds issued pursuant to this chapter shall be sold by the County Executive at public sale upon sealed proposals after at least 10 days' notice published at least once in 1 newspaper of general circulation published in New Castle County and on the website of New Castle County, at such price and upon such terms, conditions and regulations as the County Council may prescribe; provided, that the County Council may authorize the County Executive to sell such bonds at public or private sale upon such terms, conditions and regulations as it may prescribe.

(6) The proceeds of the sale of bonds issued under this chapter shall be used only for the object or purpose or objects or purposes specified in the ordinance authorizing such bonds or for the payment of the principal of and interest on temporary loans made in anticipation of the sale of such bonds. If for any reason any part of such proceeds are not applied to or are not necessary for such purposes, such unexpended part of such proceeds shall be applied to the payment of the principal of or interest on such bonds.

(7) a. Bonds shall not be issued pursuant to this chapter if their issuance would increase the aggregate principal amount of all bonds of the County then outstanding to an amount in excess of 3% of the assessed valuation of the real estate taxable by the County. Provided, however, that in computing the outstanding bonds under the previous sentence of this paragraph, there shall not be included therein any bond, notes or other evidences of indebtedness issued, or which may be issued, after January 8, 1968:

1. Under Chapter 23 of this title for the purpose of financing facilities for sanitary districts or under Chapter 5 of this title for the purpose of financing suburban community improvements;

2. Under this chapter or any other provision of law for the purpose of financing the construction or acquisition of sewer or sewage systems, airport facilities or water improvements or supply systems;

3. To the extent of any sinking fund or other reserve fund which will be available for the payment of, and which is pledged to secure, said debt;

4. In anticipation of tax or other revenues pursuant to subsection (c) of this section; or

5. Which do not pledge the full faith and credit of the County.

b. For the purposes of calculating under paragraph (a)(7)a.3. of this section, above, the amount of any sinking or reserve fund which will be available for payment of a debt, such fund shall be counted only to the extent that it is invested in obligations of, or guaranteed by, the United States or any agency or instrumentality thereof and, to the extent that the rate of investment earnings thereon is not fixed or guaranteed, such rate shall be assumed to be 6% per annum.

(8) Whenever the County Council shall have authorized the issuance of bonds by an ordinance adopted pursuant to this chapter, the County may borrow money in anticipation of the issuance of such bonds so authorized and, for such purpose, may issue, and may from time to time, renew negotiable bond anticipation notes of the County, of an aggregate principal amount not exceeding the principal amount of such bonds authorized by such resolution. The County may also borrow money in anticipation of the receipt of grants either

from the federal or state government or from any of their agencies, and for such purpose, may issue, and may from time to time, renew negotiable grant anticipation notes of the County in an aggregate amount, including interest thereon to the date of maturity, not greater than the grant or grants in anticipation of the receipt of which the notes are issued. The principal of and interest on the grant anticipation notes shall be payable out of the proceeds of the grant or grants, and the County shall so covenant. With respect to bond anticipation notes and grant anticipation notes, the County Council shall authorize such notes by a resolution or resolutions which shall determine the date of the notes, the date on which such notes are to be payable, the maximum principal amount thereof and the rate or maximum rate of interest to be borne thereby and the manner of their signing. The County Council in such resolution may delegate to the County Executive authority to sell the notes thereby authorized, either at public or private sale, and to determine within the limitations prescribed by such resolution the rate of interest to be borne by such notes and the principal amount thereof. Moneys raised by the issuance of notes in anticipation of the issuance of bonds or in anticipation of the receipt of grants shall be used only to finance the object or purpose for which the proceeds of the bonds or grants, respectively, may be used and such proceeds shall be applied, to the extent necessary, to pay and retire such notes. Notwithstanding any provisions of paragraph (a)(10) of this section, and notwithstanding any other provision of this chapter or any provision of any other law, grant anticipation notes may be made payable only from the proceeds of grants and need not pledge the faith and credit or taxing power of the County, and in that case, the notes may not be deemed to constitute an indebtedness of or a charge against the general credit or taxing power of the County within the meaning of any debt or other limitation or any provision of any other law.

(9) The full faith and credit of the County shall be deemed to be pledged for the punctual payment of the principal of and interest on every bond and note issued under this chapter. The County Council shall annually levy and collect a tax ad valorem upon all property taxable by the County sufficient to pay the principal of and interest on each such bond or note as such principal and interest become due; provided, however, such tax may be reduced by the amount of other moneys appropriated and actually available for such purpose or provided for by local or special assessments or local service taxes. Nothing in this subsection shall relieve the government of New Castle from any requirement to levy any local or special assessment or local service tax.

(10) All bonds, notes or other evidences of indebtedness issued pursuant to this chapter shall recite that they are issued for a purpose or purposes as specified in the authorizing ordinance or resolution and that they are issued pursuant to the terms of the Constitution and laws of this State and the County. Upon the sale and delivery of any such bonds, notes or other evidences of indebtedness against payment, such recitals shall be conclusive as to the right, power and authority of the County to issue the same and of the legality, validity and enforceability of the obligation of the County to pay principal of and interest on the same. In case any county official whose signature or a facsimile thereof shall appear on any such bonds, notes or other evidences of indebtedness shall cease to be such officer before the delivery of such obligation, or in case the seal of the County which appears on any such obligation shall change before the delivery of such obligation, such signature, seal or facsimile thereof shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office and as if such seal had not changed. The legality, validity and enforceability of such bonds, notes or other evidences of indebtedness shall never be questioned in any court of law or equity by the County or any person after the issuance, execution and delivery against payment for the same. All such bonds, notes and other evidences of indebtedness are hereby declared to have all the qualities and incidents of negotiable instruments under the commercial code of this State.

(b) The County Council may authorize the Chief Financial Officer to issue bonds or certificates of indebtedness to finance assessable public improvements in the manner provided by law.

(c) The County Council, subject to such limitations as may be imposed by the Constitution or laws of the State, may borrow in any fiscal year in the anticipation of the collection of taxes or other revenue budgeted for such year, and for any purposes for which such taxes are levied, such sums as shall not be in excess of 50% of the amount of uncollected taxes of such fiscal year.

(9 Del. C. 1953, § 1163; 55 Del. Laws, c. 85, § 1; 56 Del. Laws, c. 232; 64 Del. Laws, c. 318, §§ 5, 6; 71 Del. Laws, c. 401, §§ 15, 56, 57; 72 Del. Laws, c. 162, §§ 1, 2; 83 Del. Laws, c. 344, § 1.)

## § 1164. Councilmanic districts.

The boundaries of the 7 councilmanic districts shall be as follows:

**DISTRICT 1**

The boundaries of the first councilmanic district shall comprise all that portion of the City of Wilmington, Christiana Hundred and New Castle Hundred bounded by a line beginning at the point of intersection of the center line of the northerly boundary of the City of Wilmington with the center line of the boundary line of the States of Delaware and New Jersey; thence in a generally westerly direction along the center line of the boundary of the City of Wilmington to its point of intersection with the center line of the Pennsylvania Railroad right-of-way; thence in a southwesterly direction along the center line of the Pennsylvania Railroad right-of-way to its point of intersection with the center line of Todds Lane extended; thence in a northwesterly direction along the center line of Todds Lane extended and Todds Lane to its point of intersection with the center line of Bowers Street; thence in a southwesterly direction along the center line of Bowers Street to its point of intersection with the center line of 27th Street; thence in a northwesterly direction along the center line of 27th Street to its point of intersection with the center line of Claymont Street; thence in a southwesterly direction along the center line of Claymont Street to its point of intersection with the center line of 26th Street; thence in a northwesterly direction along the center line of 26th Street to its point of intersection with the center line of North East Boulevard; thence in a northeasterly direction along the center line of North East Boulevard to its point of intersection with the center line of 30th Street; thence in a northwesterly direction along the center line of

30th Street to its point of intersection with the center line of Market Street; thence in a southwesterly direction along the center line of Market Street to its point of intersection with the center line of Concord Avenue; thence in a northerly direction along the center line of Concord Avenue to its point of intersection with the center line of Washington Street; thence in a southwesterly direction along the center line of Washington Street to its point of intersection with the center line of Baynard Boulevard; thence in a southerly direction along the center line of Baynard Boulevard to its point of intersection with the center line of the Brandywine Creek; thence in a northwesterly direction along the center line of the Brandywine Creek to its intersection with the center line of Adams Street extended; thence in a southwesterly direction along the center line of Adams Street extended and Adams Street to its point of intersection with the center line of Delaware Avenue; thence in a southeasterly direction along the center line of Delaware Avenue to its point of intersection with the center line of Adams Street; thence in a southwesterly direction along the center line of Adams Street to its point of intersection with the center line of 10th Street; thence in a northwesterly direction along the center line of 10th Street to its point of intersection with the center line of Jackson Street; thence in a northeasterly direction along the center line of Jackson Street to its point of intersection with Delaware Avenue; thence in a northwesterly direction along the center line of Delaware Avenue to its point of intersection with the center line of Pennsylvania Avenue; thence in a westerly direction along the center line of Pennsylvania Avenue to its point of intersection with the center line of Broom Street; thence in a southwesterly direction along the center line of Broom Street to its point of intersection with the center line of 6th Street; thence in a northwesterly direction along the center line of 6th Street to its point of intersection with the center line of duPont Street; thence in a southwesterly direction along the center line of duPont Street to its point of intersection with the center line of 4th Street; thence in a northwesterly direction along the center line of 4th Street to its point of intersection with the center line of Union Street; thence in a southwesterly direction along the center line of Union Street to its point of intersection with the center line of Linden Street; thence in a northwesterly direction along the center line of Linden Street and Linden Street extended to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a southwesterly and southeasterly direction along the center line of the boundary of the City of Wilmington and the boundary of the City of Elsmere to its point of intersection with the most eastern point of the center line of the boundary of the City of Elsmere; thence in a southwesterly direction along the center line of the boundary of the City of Elsmere to its point of intersection with the center line of duPont Road; thence in a southeasterly direction along the center line of duPont Road to its point of intersection with the center line of Howard Street; thence in a southerly direction along the center line of Howard Street to its point of intersection with the center line of Matthes Avenue; thence in an easterly direction along the center line of Matthes Avenue to its point of intersection with the center line of Maryland Avenue; thence in a southwesterly direction along the center line of Maryland Avenue to its point of intersection with the center line of Middleboro Road; thence in an easterly direction along the center line of Middleboro Road and Middleboro Road extended to its point of intersection with the center line of the Pennsylvania Railroad right-of-way; thence in a southwesterly direction along the center line of the Pennsylvania Railroad right-of-way (extended) to its intersection with the center line of the Christina River; thence in an easterly and northerly direction along the center line of the Christina River to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a southeasterly direction along the center line of the boundary of the City of Wilmington to its point of intersection with the center line of South Heald Street (Heald Street Cut-Off); thence in a southwesterly direction along the center line of South Heald Street (Heald Street Cut-Off) to its intersection with the center line of Rogers Road; thence in a southeasterly direction along the center line of Rogers Road to its point of intersection with the center line of New Castle Avenue; thence southwesterly along the center line of New Castle Avenue to its point of intersection with the center line of Lambson Lane; thence in an easterly direction along the center line of Lambson Lane to its intersection with the center line of the boundary of the City of Wilmington; thence in a southeasterly direction along the center line of the boundary of the City of Wilmington to its point of intersection with the center line of the boundary of the States of Delaware and New Jersey; thence in a northeasterly direction along the center line of the boundary of the States of Delaware and New Jersey to its intersection with the center line of the northern boundary of the City of Wilmington, the point and place of beginning.

**DISTRICT 2**

The boundaries of the second councilmanic district shall comprise all that portion of Brandywine Hundred and the City of Wilmington bounded by a line beginning at the point of intersection of the center line of the most eastern point of the state boundary of the States of Delaware and New Jersey; thence in a northwesterly direction along the center line of the state boundary of the States of Delaware and New Jersey to the point of its intersection with the center line of the state boundary of the States of Delaware and Pennsylvania; thence in a westerly direction along the center line of the state boundary of the State of Delaware and Pennsylvania to its point of intersection with the center line of Dartmouth Woods Road extended; thence in a southerly direction along the center line of Dartmouth Woods Road extended and Dartmouth Woods Road to its point of intersection with the center line of Naamans Road; thence in a westerly direction along the center line of Naamans Road to its point of intersection with the center line of Grubb Road; thence in a southeasterly direction along the center line of Grubb Road to its point of intersection with the center line of Weatherton Drive; thence in a southerly direction along the center line of Weatherton Drive to its point of intersection with the center line of Raven Road; thence in a westerly direction along the center line of Raven Road to its point of intersection with the center line of Kingman Drive; thence in a generally southerly direction along the center line of Kingman Drive to its point of intersection with the center line of Silverside Road; thence in a southeasterly direction along the center line of Silverside Road to its point of intersection with the center line of Graylyn Road; thence in a southwesterly direction along the center line of Graylyn Road to its point of intersection with the center line of Graywell Road; thence in a southwesterly direction along the center line of Graywell Road to its point of intersection with the center line of Wilson Road; thence in a southwesterly direction along the center line of Wilson Road to its point of intersection with the center line of Shipley Road; thence in a southerly direction along

the center line of Shipley Road to its point of intersection with the center line of the Baltimore and Ohio Railroad right-of-way; thence in a southwesterly direction along the center line of the Baltimore and Ohio Railroad right-of-way to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a southerly, easterly and northerly direction along the center line of the boundary of the City of Wilmington to its intersection with the center line of Lea Boulevard; thence in a southeasterly direction along the center line of Lea Boulevard to its intersection with the center line of Washington Street; thence in a southwesterly direction along the center line of Washington Street to its intersection with the center line of 33rd Street; thence in a southeasterly direction along the center line of 33rd Street to its point of intersection with the center line of Market Street; thence in a southwesterly direction along the center line of Market Street to its point of intersection with the center line of 30th Street; thence in a southeasterly direction along the center line of 30th Street to its point of intersection with the center line of North East Boulevard; thence in a southwesterly direction along the center line of North East Boulevard to its point of intersection with the center line of 26th Street; thence in a southeasterly direction along the center line of 26th Street to its point of intersection with the center line of Claymont Street; thence in a northeasterly direction along the center line of Claymont Street to its point of intersection with the center line of 27th Street; thence in a southeasterly direction along the center line of 27th Street to its point of intersection with the center line of Bowers Street; thence in a northeasterly direction along the center line of Bowers Street to its point of intersection with the center line of Todds Lane; thence in a southeasterly direction along the center line of Todds Lane and Todds Lane extended to its point of intersection with the center line of the Pennsylvania Railroad right-of-way; thence in a northeasterly direction along the center line of the Pennsylvania Railroad right-of-way to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a generally easterly direction along the center line of the northern boundary of the City of Wilmington to its point of intersection with the center line of the state boundary of the States of Delaware and New Jersey; thence in a northeasterly direction along the center line of the state boundary of the States of Delaware and New Jersey to the most eastern point of the state boundary of the States of Delaware and New Jersey, the point and place of beginning.

**DISTRICT 3**

The boundaries of the third councilmanic district shall comprise all that portion of Brandywine Hundred, Christiana Hundred, Mill Creek Hundred, and the City of Wilmington bounded by a line beginning at the point of intersection of the center line of the state boundary of the States of Delaware and Pennsylvania and the center line of Dartmouth Woods Road extended; thence in a generally westerly direction along the center line of the boundaries of the States of Delaware and Pennsylvania to its point of intersection with the center line of Old Wilmington Road; thence in a generally southeasterly direction along the center line of Old Wilmington Road to its point of intersection with the center line of Loveville Road; thence in a southerly direction along the center line of Loveville Road to its point of intersection with the center line of Lancaster Pike (Route 48); thence in a southeasterly direction along the center line of Lancaster Pike (Route 48) to its point of intersection with the center line of Center Road (Route 141); thence in a southwesterly direction along the center line of Center Road (Route 141) to its point of intersection with the center line of Faulkland Road; thence in an easterly direction along the center line of Faulkland Road to its point of intersection with the center line of duPont Road; thence in a southerly direction along the center line of duPont Road to its point of intersection with the center line of the boundary of the City of Elsmere; thence in a southeasterly direction along the center line of the boundary of the City of Elsmere to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a northeasterly direction along the center line of the boundary of the City of Wilmington to its point of intersection with the center line of Linden Street extended; thence in a southeasterly direction along the center line of Linden Street extended and Linden Street to its point of intersection with the center line of Union Street; thence in a northeasterly direction along the center line of Union Street to its point of intersection with the center line of 4th Street; thence in a southeasterly direction along the center line of 4th Street to its point of intersection with the center line of duPont Street; thence in a northeasterly direction along the center line of duPont Street to its intersection with the center line of 6th Street; thence in a southeasterly direction along the center line of 6th Street to its point of intersection with the center line of Broom Street; thence in a northeasterly direction along the center line of Broom Street to its intersection with the center line of Pennsylvania Avenue; thence in an easterly direction along the center line of Pennsylvania Avenue to its point of intersection with the center line of Delaware Avenue; thence in a southeasterly direction along the center line of Delaware Avenue to its second point of intersection with the center line of Jackson Street; thence in a southwesterly direction along the center line of Jackson Street to its point of intersection with the center line of 10th Street; thence in a southeasterly direction along the center line of 10th Street to its point of intersection with the center line of Adams Street; thence in a northeasterly direction along the center line of Adams Street to its point of intersection with the center line of Delaware Avenue; thence in a northwesterly direction along the center line of Delaware Avenue to its point of intersection with the center line of Adams Street; thence in a northeasterly direction along the center line of Adams Street and Adams Street extended to its point of intersection with the center line of the Brandywine Creek; thence in a southeasterly direction along the center line of the Brandywine Creek to its point of intersection with the center line of Baynard Boulevard; thence in a northeasterly direction along the center line of Baynard Boulevard to its point of intersection with the center line of Washington Street; thence in a northeasterly direction along the center line of Washington Street to its point of intersection with the center line of Concord Avenue; thence in a southerly direction along the center line of Concord Avenue to its point of intersection with the center line of Market Street; thence in a northeasterly direction along the center line of Market Street to its point of intersection with the center line of 33rd Street; thence in a northwesterly direction along the center line of 33rd Street to its point of intersection with the center line of Washington Street; thence in a northeasterly direction along the center line of Washington Street to its point of intersection with the center line of Lea Boulevard; thence in a northwesterly direction along the center line of Lea Boulevard to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a westerly, southerly and northerly direction

along the center line of the boundary of the City of Wilmington to its point of intersection with the center line of the Baltimore and Ohio Railroad right-of-way; thence in a northeasterly direction along the center line of the Baltimore and Ohio Railroad right-of-way to its point of intersection with the center line of Shipley Road; thence in a northwesterly direction along the center line of Shipley Road to its point of intersection with the center line of Wilson Road; thence in a northeasterly direction along the center line of Wilson Road to its point of intersection with the center line of Graywell Road; thence in a northwesterly direction along the center line of Graywell Road to its point of intersection with the center line of Graylyn Road; thence in a northeasterly direction along the center line of Graylyn Road to its point of intersection with the center line of Silverside Road; thence in a northwesterly direction along the center line of Silverside Road to its point of intersection with the center line of Kingman Drive; thence in a generally northerly direction along the center line of Kingman Drive to its point of intersection with the center line of Raven Road; thence in an easterly direction along the center line of Raven Road to its point of intersection with the center line of Weatherton Drive; thence in a northeasterly direction along the center line of Weatherton Drive to its point of intersection with the center line of Grubb Road; thence in a northwesterly direction along the center line of Grubb Road to its point of intersection with the center line of Naamans Road; thence in an easterly direction along the center line of Naamans Road to its point of intersection with the center line of Dartmouth Woods Road; thence in a northeasterly direction along the center line of Dartmouth Woods Road and Dartmouth Woods Road extended to its point of intersection with the center line of the state boundary of the States of Delaware and Pennsylvania, the point and place of beginning.

**DISTRICT 4**

The boundaries of the fourth councilmanic district shall comprise all that portion of Christiana Hundred, Mill Creek Hundred, the City of Elsmere and the City of Newport bounded by a line beginning at the point of intersection of the center line of Center Road (Route 141) and the center line of Lancaster Pike (Route 48); thence in a northwesterly direction along the center line of Lancaster Pike (Route 48) to its point of intersection with the center line of Loveville Road; thence in a southerly direction along the center line of Loveville Road and McKennans Church Road to its point of intersection with the center line of Milltown Road; thence in a southwesterly direction along the center line of Milltown Road to its point of intersection with the center line of the Kirkwood Highway (Route 2); thence in a southwesterly direction along the center line of Kirkwood Highway (Route 2) to its point of intersection with the center line of the entrance road to Delaware Park; thence in a southeasterly direction along the center line of the entrance road to Delaware Park to its point of intersection with the center line of Old Capitol Trail; thence in a southwesterly direction along the center line of Old Capitol Trail to its point of intersection with the center line of Oak Street; thence in a southeasterly and southwesterly direction along the center line of Oak Street to its point of intersection with the center line of Marta Drive; thence in a southwesterly direction along the center line of Marta Drive to its point of intersection with the center line of a stream connecting Marta Drive with White Clay Creek; thence in a southeasterly direction along the center line of a stream connecting Marta Drive with White Clay Creek to its point of intersection with the center line of the White Clay Creek; thence in a generally northeasterly, southerly and easterly direction along the center line of the White Clay Creek to its point of intersection with the Christina River; thence generally northeasterly along the center line of the Christina River to its intersection with the center line of the Pennsylvania Railroad right-of-way extended; thence in a northeasterly direction along the center line of the Pennsylvania Railroad right-of-way extended to its point of intersection with the center line of Middleboro Road extended; thence in a westerly direction along the center line of Middleboro Road extended and Middleboro Road to its point of intersection with the center line of Maryland Avenue; thence in a northeasterly direction along the center line of Maryland Avenue to its point of intersection with the center line of Matthes Avenue; thence in a northwesterly direction along the center line of Matthes Avenue to its point of intersection with the center line of Howard Street; thence in a northerly direction along the center line of Howard Street to its point of intersection with the center line of duPont Road; thence in a northwesterly direction along the center line of duPont Road to its point of intersection with the center line of the boundary of the City of Elsmere; thence in a northeasterly and generally northwesterly direction along the center line of the boundary of the City of Elsmere to its point of intersection with the center line of duPont Road; thence in a northerly direction along the center line of duPont Road to its point of intersection with the center line of Faulkland Road; thence in a westerly direction along the center line of Faulkland Road to its point of intersection with the center line of Center Road (Route 141); thence in a northeasterly direction along the center line of Center Road (Route 141) to its point of intersection with the center line of Lancaster Pike (Route 48), the point and place of beginning.

**DISTRICT 5**

The boundaries of the fifth councilmanic district shall comprise all that portion of Mill Creek Hundred, White Clay Creek Hundred, Pencader Hundred and the City of Newark bounded by a line beginning at the intersection of the center line of Old Wilmington Road and the center line of the state boundary of the States of Delaware and Pennsylvania; thence in a southwesterly direction along the center line of the state boundary line of the States of Delaware and Pennsylvania to its intersection with the center line of the boundaries of the States of Maryland and Delaware; thence in a southerly direction along the center line of the boundary of the States of Maryland and Delaware to its point of intersection with the center line of U.S. Route 40; thence in a generally easterly direction along the center line of U.S. Route 40 to its point of intersection with the center line of Salem Church Road; thence in a generally northwesterly direction along the center line of Salem Church Road to its point of intersection with the center line of the Christina Creek; thence in a generally northeasterly direction along the center line of the Christina Creek to its point of intersection with the center line of Ogleman Road (Route 7); thence in a generally northwesterly direction along the center line of Ogleman Road (Route 7) to its point of intersection with the center line of Christina Road (Route 273); thence northwesterly along the center line of the Christina Road (Route 273) to its intersection with the center line of Harmony Road; thence in a generally northerly direction along the center line of Harmony Road to its point of intersection

with the center line of Ogletown-Stanton Road; thence in a northeasterly direction along the center line of the Ogletown-Stanton Road to its point of intersection with the center line of the Wilmington-Christiana Turnpike (Route 7); thence in a northerly direction along the center line of the Wilmington-Christiana Turnpike (Route 7) to its point of intersection with the center line of the Pennsylvania Railroad right-of-way; thence in a northeasterly direction along the center line of the Pennsylvania Railroad right-of-way to its point of intersection with the center line of White Clay Creek; thence in a northerly and generally westerly direction along the center line of White Clay Creek to its point of intersection with the center line of the stream connecting White Clay Creek with Marta Drive; thence in a northerly direction along the center line of the stream connecting White Clay Creek with Marta Drive to its point of intersection with the center line of Marta Drive; thence in a northeasterly direction along the center line of Marta Drive to its point of intersection with the center line of Oak Street; thence in a northeasterly and northwesterly direction along the center line of Oak Street to its point of intersection with the center line of Old Capitol Trail; thence in a northeasterly direction along the center line of Old Capitol Trail to its point of intersection with the center line of the entrance road to Delaware Park; thence in a northwesterly direction along the center line of the entrance road to Delaware Park to its point of intersection with the center line of the Kirkwood Highway (Route 2); thence in a northeasterly direction along the center line of the Kirkwood Highway (Route 2) to its point of intersection with the center line of Milltown Road; thence in a northeasterly direction along the center line of Milltown Road to its point of intersection with the center line of McKennans Church Road; thence in a generally northerly direction along the center line of McKennans Church-Loveville Road to its point of intersection with the center line of Old Wilmington Road; thence in a northwesterly direction along the center line of Old Wilmington Road to its point of intersection with the center line of the boundary of the States of Delaware and Pennsylvania, the point and place of beginning.

**DISTRICT 6**

The boundaries of the sixth councilmanic district shall comprise all that portion of New Castle Hundred, Pencader Hundred, Red Lion Hundred, St. Georges Hundred, Appoquinimink Hundred and Blackbird Hundred bounded by a line beginning at the point of intersection of the center line of the southerly boundary of the City of Wilmington and the center line of the state boundary of the States of Delaware and New Jersey; thence in a northwesterly direction along the center line of the southerly boundary of the City of Wilmington to its point of intersection with the center line of Lambson Lane; thence in a generally westerly direction along the center line of Lambson Lane to its point of intersection with the center line of New Castle Avenue; thence in a northeasterly direction along the center line of New Castle Avenue to its point of intersection with the center line of Rogers Road; thence in a northwesterly direction along the center line of Rogers Road to its point of intersection with the center line of South Heald Street (Heald Street Cut-Off); thence in a northeasterly direction along the center line of South Heald Street (Heald Street Cut-Off) to its point of intersection with the center line of the boundary of the City of Wilmington; thence in a northwesterly direction along the center line of the boundary of the City of Wilmington to its point of intersection with the center line of the Christina River; thence in a generally southwesterly direction along the center line of the Christina River to its point of intersection with the center line of the White Clay Creek; thence in a generally westerly direction along the center line of the White Clay Creek to its point of intersection with the center line of the Pennsylvania Railroad right-of-way; thence in a southwesterly direction along the center line of the Pennsylvania Railroad right-of-way to its point of intersection with the center line of Wilmington Christiana Turnpike (Route 7); thence in a southerly direction along the center line of the Wilmington Christiana Turnpike (Route 7) to its point of intersection with the center line of Ogletown-Stanton Road; thence in a southwesterly direction along the center line of Ogletown-Stanton Road to its point of intersection with the center line of Harmony Road; thence in a southerly direction along the center line of Harmony Road to its point of intersection with the center line of Christiana-Ogletown Road (Route 273); thence in a southeasterly direction along the center line of Christiana-Ogletown Road (Route 273) to its point of intersection with the center line of the Christina Creek; thence in a generally southwesterly direction along the center line of the Christina Creek to its point of intersection with the center line of Salem Church Road; thence in a southeasterly direction along the center line of Salem Church Road to its point of intersection with the center line of U.S. Route 40; thence in a generally westerly direction along the center line of U.S. Route 40 to its point of intersection with the center line of the state boundary of the States of Delaware and Maryland; thence in a southerly direction along the center line of the state boundary of the States of Delaware and Maryland to its point of intersection with the center line of the boundary line between the Counties of Kent and New Castle; thence in a generally easterly and northeasterly direction along the center line of the boundary between the Counties of Kent and New Castle to its point of intersection with the center line of the boundary of the States of Delaware and New Jersey; thence in a generally northerly direction along the center line of the boundary of the States of Delaware and New Jersey to its point of intersection with the center line of the southerly boundary of the City of Wilmington, the point and place of beginning.

**DISTRICT 7**

The boundaries of the seventh councilmanic district shall comprise all of New Castle County.

(9 Del. C. 1953, § 1164; 55 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 264, § 6; 57 Del. Laws, c. 303, § 5; 70 Del. Laws, c. 186, § 1.)

## § 1165. Redistricting after each census.

(a) It shall be the mandatory duty of the County Council to redistrict New Castle County into council districts after each regular United States decennial census. For the general election in 2002 the County Council shall redistrict the county into 7 council districts, including 1 district comprising all of New Castle County for the election of the President of the county government.

(1) To accomplish the redistricting after the 2000 decennial census, the County Council shall, within 60 days after the official reporting of the 2000 decennial census by the President to Congress, appoint 7 qualified voters of the County who shall comprise a

Redistricting Commission. The members of this Redistricting Commission shall be appointed 1 from each of the 7 council districts of the County, including 1 district comprising all of New Castle County, and shall not be employed by the County in any other capacity. No more than 4 of the members shall be affiliated with the same political party. Within 90 days after appointment by County Council, the Redistricting Commission shall file with the Clerk of County Council a report containing the recommended plan for adjusting the council district boundaries to reapportion the county into 6 council districts with the following specifications:

a. Each district shall contain contiguous territory; and

b. Each district shall contain nearly as possible the same number of inhabitants and no district shall deviate in population more than 15% from the average population for all districts, the average to be obtained by dividing the number 6 into the total population of the county according to the last census.

(2) To accomplish the redistricting commencing with the 2010 decennial census, and each decennial census thereafter, the County Council shall, within 60 days after the official reporting of the census by the President to Congress, appoint 13 qualified voters of the County who shall comprise a Redistricting Commission. The members of this Redistricting Commission shall be appointed 1 from each of the 12 council districts of the county and 1 at-large, and shall not be employed by the county in any other capacity. No more than 7 of the members shall be affiliated with the same political party. Within 90 days after appointment by Council Council, the Redistricting Commission shall file with the Clerk of County Council a report containing the recommended plan for adjusting the council district boundaries of districts 1 through 12 to comply with the following specifications:

a. Each district shall contain contiguous territory; and

b. Each district shall contain nearly as possible the same number of inhabitants and no district shall deviate in population more than 15% from the average population for all districts, the average to be obtained by dividing the number 12 into the total population of the county according to the last census.

(b) The report of the Redistricting Commission shall include a map and a description of the councilmanic districts recommended and shall be in the form of a proposed ordinance. Once filed with the Clerk of County Council the report shall be treated as an ordinance introduced by a member of the County Council.

(c) The procedure for the County Council's consideration of the report shall be the same as for other ordinances, provided that a map and a description of the proposed districts shall be published in addition to the other requirements for publication connected with enacting ordinances.

(d) The County Council shall adopt a redistricting ordinance within 60 days after the report of the Redistricting Commission has been filed with the Clerk of County Council. If a redistricting ordinance has not been adopted by the County Council and approved by the County Executive within 60 days of filing the report by the Redistricting Commission, the redistricting plan as submitted by the Redistricting Commission shall become effective as if it had been adopted by County Council and approved by the County Executive. The redistricting ordinance, if 1 has been adopted by the County Council and approved by the County Executive, or the redistricting plan as submitted by the Redistricting Commission shall then determine the boundaries of districts 1 through 6 until the next redistricting in accordance with the provisions of this section, the provisions of § 1164 of this title notwithstanding.

(e) As used in § 1166 of this title, the phrase "odd-numbered federal decennial census" shall refer to the decades whose first digit is an odd number, for example, 2010, 2030, 2050; and the phrase "even-numbered federal decennial census" shall refer to the decades whose first digit is an even number, for example, 2000, 2020, 2040.

(9 Del. C. 1953, § 1165; 55 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 264, §§ 7, 8, 14-16; 57 Del. Laws, c. 303, §§ 6, 7; 58 Del. Laws, c. 406, § 5; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 568, § 2; 70 Del. Laws, c. 569, § 4; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 414, §§ 4, 5; 73 Del. Laws, c. 30, §§ 2, 3.)

## § 1166. Election of County Executive and officials of the county governing body.

(a) County Executives shall serve a term of 4 years and shall be elected in even-numbered and presidential election years.

(b) The officials elected to district 13 shall serve a term of 4 years and shall be elected in even-numbered presidential election years.

(c) All citizens qualified by the Constitution and laws of the State to vote in the County, and who satisfy the requirements for registration prescribed by law, shall be qualified to vote for members of the County Council and for the County Executive.

(d) Except as otherwise provided by this chapter, the election laws of the State shall apply to elections held under this chapter. All elections provided for by this chapter shall be conducted by the election authorities authorized to hold elections under the election laws of the State.

(e) The nomination of persons to be candidates in the general elections for County Executive and officials of the county governing body shall be governed by the election laws of the State.

(9 Del. C. 1953, § 1166; 55 Del. Laws, c. 85, § 1; 57 Del. Laws, c. 264, §§ 9-11; 57 Del. Laws, c. 303, §§ 8-10; 58 Del. Laws, c. 406, §§ 1-4; 70 Del. Laws, c. 569, § 5; 71 Del. Laws, c. 198, § 10; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 414, §§ 6, 7.)

## § 1167. Creation of departments and agencies.

The County Council, by ordinance, may establish departments, offices or agencies of the County in addition to those created by this title and may prescribe the functions of all departments, offices and agencies, except that no function prescribed by this title to a particular

department, office or agency may be discontinued or assigned by the County Council to any other department, office or agency without the concurring approval of the County Executive.

(9 Del. C. 1953, § 1167; 55 Del. Laws, c. 85, § 1; 59 Del. Laws, c. 414, § 1; 71 Del. Laws, c. 401, § 15.)

### § 1168. Vesting of slum clearance and housing authorities' powers in county departments.

All of the powers of a slum clearance and redevelopment authority which now or hereafter shall be authorized under Chapter 45 of Title 31 and all of the powers of a housing authority which are now or hereafter shall be authorized under Chapter 43 of Title 31 may be vested by ordinance of New Castle County in such department or departments of the County Council as County Council may determine and County Council may delegate to a department director or directors the authority to execute contracts, deeds, leases, mortgages and other instruments necessary to carry out the aforesaid powers.

(60 Del. Laws, c. 34, § 1; 71 Del. Laws, c. 401, § 15.)

### § 1169. Initial council meeting.

Except in the case of an emergency declared by the Governor, the county governing body shall not meet between the general election day and the following Tuesday when the newly elected officials shall take office.

(70 Del. Laws, c. 568, § 3.)

## Subchapter V
## General Provisions

### § 1181. Bonding of officers and employees.

(a) Prior to the entry of any officers of the County upon the duties of their offices, the Office of Law shall procure at the expense of the County, corporate surety bonds, conditioned for the faithful performance of their respective duties in such penal sums as shall be fixed by the County Council, but the amount shall not in any case be less than $15,000.

(b) Within 6 months of the organization of the Office of Law, the County Attorney shall recommend through the County Executive to the County Council, the amounts in which fidelity bonds shall be procured for the faithful performance of duties of all officers and employees of the County Council, either generally or by categories. In the performance of this responsibility, the Office of Law may recommend blanket bonds covering individual fidelity or may recommend comprehensive coverage for all, or for groups of employees, on an occurrence basis.

(9 Del. C. 1953, § 1181; 55 Del. Laws, c. 85, § 1; 71 Del. Laws, c. 401, §§ 15, 58.)

### § 1182. Personal financial interest.

(a) Any county officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the County or in the sale of any land, material, supplies or services to the County or to a contractor supplying the County, shall make known that interest and shall refrain from voting upon or otherwise participating in the making of such a contract or sale.

(b) Any county officer or employee who wilfully conceals such a substantial financial interest, or wilfully violates the requirements of this section, shall be guilty of malfeasance in office or position and shall forfeit his or her office or position.

(c) Violation of this section with the knowledge express or implied of the person or corporation contracting with or making a sale to the County shall render the contract voidable by the County Executive or the County Council.

(9 Del. C. 1953, § 1182; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

### § 1183. Prohibitions and penalties.

(a) The following prohibitions apply:

(1) A person may not be appointed to, or removed from, or in any way favored or discriminated against with respect to, any county position, or appointive county administrative office, because of race, or color, or national origin, political or religious opinions or affiliations, sex, sexual orientation, gender identity, or any other basis protected under Chapter 7 of Title 19. For purposes of this subsection:

a. "Protective hairstyle" includes braids, locks, and twists.

b. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

(2) A person may not, wilfully or corruptly, make any false statement, certificate, mark, rating, or report in regard to any test, certification or appointment under the personnel provisions of this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions or of the rules and regulations made under this chapter.

(3) A person who seeks appointment or promotion with respect to any county position or appointive county administrative office may not, directly or indirectly, give, render, or pay any money, service, or other valuable thing to any person for, or in connection with, that person's test, appointment, proposed appointment, promotion, or proposed promotion.

(b) Any person who alone or with others wilfully or corruptly violates this section shall be fined not more than $500, or imprisoned for not more than 1 year, or both. Any person convicted under this section shall be ineligible, for a period of 5 years thereafter, to hold any county office or position and, if that person is an officer or employee of the County, that person shall immediately forfeit that person's office or position. The Superior Court shall have exclusive original jurisdiction over offenses under this section.

(9 Del. C. 1953, § 1183; 55 Del. Laws, c. 85, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 90, § 12; 79 Del. Laws, c. 47, § 14; 83 Del. Laws, c. 13, § 4; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 144, § 4.)

## § 1184. Public right of inspection of public records.

(a) County records, the disclosure of which would invade a person's right of privacy, hinder law enforcement, endanger the public safety, or breach a legally recognized duty of confidence, or the nondisclosure of which is legally privileged, or which have been prepared for or by the County Attorney for use in actions or proceedings to which the County is or may be a party, shall not be available for public inspection.

(b) Except as provided in this section, all other county records shall be open for public inspection, but the officer, department, board or commission, or other governmental agency of the County having the care and custody of such records, may make reasonable regulations governing the time, place and manner of their inspection, and for purposes of archival preservation, copies of county records may be substituted in lieu of original records.

(9 Del. C. 1953, § 1184; 55 Del. Laws, c. 85, § 1.)

# Part II
# New Castle County
## Chapter 13
## County Departments
## Subchapter I
## Department of Land Use

### § 1301. Functions.

The Department of Land Use, managed by the general manager of the department, who shall be qualified by education, experience and training, shall perform the following functions unless otherwise provided:

(1) The Department shall administer and enforce all statutes, ordinances and regulations for the protection of persons and property from hazards in the use, occupancy, condition, erection, alteration, maintenance, repair, removal and demolition of buildings and structures or any parts thereof, and of outdoor signs. The Department shall enforce compliance with the county subdivision and zoning code and regulations thereunder, subject to determinations made by the Board of Adjustment on appeals taken thereto.

(2) The Department shall:

a. Issue all forms for applications and receive all applications for licenses.

b. Determine whether an applicant is properly entitled to the license which that applicant seeks.

c. If the application is granted and the proper fee has been paid to the Office of Finance, issue the license to the applicant, either for itself or as agent for the officer, department or board under whose jurisdiction the subject matter thereof falls.

d. If the application is refused, notify the applicant in writing of the refusal and the reasons therefor.

e. The requirements and standards to be met by applicants for licenses shall include those established by the Department in cases in which the Department is responsible for the function involved.

(3) The Department shall make all inspections except as may otherwise be specifically provided in this title.

(4) The Department shall determine, as a result of its inspection, whether any person or the owner of any property is violating the conditions of any license, or whether any property owner is violating any statute, ordinance or regulation which it is the duty of the Department to enforce. If the Department shall find a violation to exist, it shall forthwith make such order or take such other lawful action as may be necessary to correct the dangerous or unlawful condition, and if necessary it shall invoke the assistance of the County Attorney or the County Police Department, or both.

(5) The Department, whenever it finds that a holder of any license is violating the conditions thereof, shall revoke, suspend or cancel the license. The Department shall also revoke, suspend or cancel a license whenever the office, department or board that granted the license so directs. Any revocation, suspension or cancellation shall be in writing and shall state in detail the reasons therefor.

(6) The Department, on request of any officer, department or board, shall make a special inspection of any property upon which unlawful conditions are believed to exist or to investigate the manner in which the holder of any license is operating under it. The Department shall also receive and consider complaints from citizens.

(7) The Department shall:

a. Verify compliance with the New Castle County Code related to lines and grades;

b. Not issue any permits or certificates of occupancy unless the lines and grades requirements of the New Castle County Code have been satisfied.

(8) The Department shall undertake studies of the pattern and of the potential for economic development within the County, and recommend to the County Executive programs designed to improve basic conditions conducive to better economic development of the County.

(9) The Department shall prepare and recommend to the Planning Board a comprehensive development plan for the County for the purpose of promoting health, safety, prosperity and general welfare. For those portions of the County which do not lie within the corporate limits of a municipality, the plan shall be definitive; for the remainder it shall reflect such portions of municipal planning as may be appropriate for inclusion in the county comprehensive development plan. Upon adoption of the comprehensive development plan, the Department shall be responsible for maintaining it on a current basis. To this end, it shall from time to time make recommendations to the Planning Board for modification in the plan. Such comprehensive development plan shall show, as to present and as to proposed ultimate development, the following: land use, general location, extent and character of streets, bridges, waterways and other public ways; parks and open spaces; public buildings; public utilities and terminals, whether publicly or privately owned; public housing, slum clearance and rehabilitation areas; and any other physical facility, with due regard to the aesthetic characteristics of all public structures. The comprehensive development plan may, when requested by incorporated municipalities, set forth within such municipalities any or all of the elements mentioned in this paragraph.

(10) The Department may develop and maintain the official map of those portions of the County which do not lie within the limits of incorporated municipalities. The official map and amendments thereto shall show all existing and established streets, planned streets, recommended street lines located on the final or recorded plats of subdivisions and the location of existing or planned parks and open spaces. Street locations on final or recorded plats of subdivisions shall constitute amendments to the official map and shall be placed thereon.

(11) The Department shall maintain and keep current the subdivision and zoning code for the County for the portions of the County which do not lie within the limits of incorporated municipalities. To this end, it shall make recommendations, through the County Executive to the County Council, for such revisions in the subdivision and zoning code as it shall deem appropriate and necessary for the purpose of promoting the public health, safety, morals and general welfare of the County, which Code may contain regulations with respect to the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population, and the use of buildings, structures and land for trade, industry, business, residence or other purposes.

(12) The Department shall prepare and recommend, through the County Executive to the County Council, such measures as it shall deem appropriate for the clearance of slum areas, public housing developments, and the rehabilitation or redevelopment of blighted areas.

(13) The Department shall assist the County Executive and Chief Administrative Officer in the preparation of the capital improvement program for the 6-year period provided for in this title.

(14) The Department shall prepare and recommend, through the County Executive to the County Council, measures for the replanning, improvement and reconstruction of neighborhoods and community centers and of areas or districts which may be wholly or partially destroyed or seriously damaged by fire, earthquake, flood or other disaster.

(15) [Repealed.]

(16) [Repealed.]

(17) [Repealed.]

(9 Del. C. 1953, § 1361; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 84 Del. Laws, c. 412, § 1.)

## § 1302. Definitions.

In this subchapter:

(1) “Inspection” shall mean any inspection, test or examination to which any person is subject as an applicant for, or a holder of, a license, or to which any property is subject under any statute, ordinance or regulation which it is the duty of the County Executive or of any other officer, department or board to enforce.

(2) “License” shall mean any license or permit required by statute, ordinance or regulation to be obtained from any county officer, department or board as a prerequisite to engaging in any activity or having possession of or using any property.

(9 Del. C. 1953, § 1362; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1303. Planning Board.

(a) The Planning Board shall consist of 9 members. The County Executive, with the advice and consent of County Council, shall appoint 8 members who shall serve for terms of 3 years, provided that the terms of at least 2 members shall expire each year, at least 1 term to expire on January 31, and 1 term to expire on July 31.

(b) The County Executive, with the advice and consent of County Council, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of the County Executive.

(c) The compensation of the members of the Planning Board shall be determined by the County Council of New Castle County.

(71 Del. Laws, c. 401, § 59; 72 Del. Laws, c. 369, § 1.)

## § 1304. Functions of Planning Board.

The Planning Board shall perform the following functions:

(1) Consult with the general manager concerning the performance of such of the functions of the Department as either the Board or the general manager shall deem appropriate. To this end, the general manager shall keep the Board informed concerning the work of the Department and shall, at the request of the Board, furnish it such information as it may reasonably require in the performance of this function.

(2) Review the proposed comprehensive development plan, proposed zoning plan changes, proposed subdivision regulations, and all amendments thereto, and upon completion of its consideration of any of these, the Board shall recommend to the County Council such action as the Board shall deem appropriate.

(9 Del. C. 1953, § 1343; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1305. Adoption and effectuation of comprehensive plan.

(a) After preparation of the comprehensive development plan by the Department and approval by the Planning Board, the plan shall be reviewed by the County Executive and presented to the County Council. The County Council shall hold public hearings on the proposed

plan or portions thereof in the same manner and under the same procedure required for the consideration and adoption of ordinances. The County Council may adopt all or any portions of the comprehensive development plan.

(b) After adoption of all or portions of the comprehensive development plan by the County Council, the plan shall be viewed as a document expressing the general policies and intentions of the County Council with respect to the future development of the County. It shall not have the force and effect of a law or ordinance. After adoption of all or parts of the plan by the County Council, any proposed action of the County Council relating to:

(1) The location, opening, vacation, extension, widening, narrowing or enlargement of any public ground, pierhead or watercourse or street;

(2) The location, erection, demolition, removal or sale of any public structure; or

(3) The adoption, repeal or amendment of an official map, subdivision and land development ordinance, or zoning ordinance

shall be taken in compliance with the following requirements: (i) The proposed actions shall be submitted to the department for recommendations, provided that the County Council may act without benefit of the Department's recommendations if they are not submitted within 45 days, and (ii) the County Council shall find that the proposed actions are in accordance with the spirit and intent of the formally adopted portions of the comprehensive development plan before final action shall be taken by the County Council. When the County Council finds that a proposed action is not in accordance with the spirit and intent of the formally adopted portions of the comprehensive development plan it shall amend the plan to make the action taken and the comprehensive development plan consistent with each other.

(9 Del. C. 1953, § 1344; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1306. Legal effect of subdivision regulations.

All proposed subdivisions of land to be made after the adoption of regulations governing subdivision of land shall be submitted to the Department for approval for conformity to the subdivision regulations and no such proposed subdivision shall be made or recorded unless approved by the Department. Approval of a plat of a subdivision shall constitute an acceptance on behalf of the County of any street or open space for public use shown on the plat but shall not constitute a taking of the property for public use. Acceptance of the street or open space for public use shall not within itself define the responsibilities of the State or the County in the paving, maintenance, cleaning or lighting of such street or open space.

(9 Del. C. 1953, § 1345; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1307. Planned street lines and public parks; official map.

(a) Upon the recommendation of the Department, the County Council, by ordinance, may adopt an official map containing:

(1) The exact location of the planned lines of street widenings and extensions, or of future streets;

(2) The lines of all public streets then existing which have been established by law;

(3) All planned streets or street lines previously adopted under this section;

(4) All streets or street lines as located on the final or recorded plats of subdivisions as previously approved by the Department;

(5) All existing or planned public parks and other public open spaces.

(b) After adoption of the official map or street plan, no amendments thereto showing the location of a planned or mapped street shall be adopted before public notice shall have been given to the owners of record of the land upon which, or abutting which, lies the future street lines designated upon the plan.

(c) Any map or plan adopted prior to May 26, 1965, under Chapter 25 of this title, shall remain in effect until the County Council acts under the provisions of subsection (a) of this section.

(9 Del. C. 1953, § 1346; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1308. Legal effect of official map or street plan.

(a) Upon adoption of any plan showing the location of a planned or mapped street, the owners of the property within the lines of such planned or mapped street shall, for the period specified in the ordinance, but not exceeding the limits otherwise established by statute, be prohibited from erecting any structure within such lines. The owner of any property so affected shall be entitled to appeal to the Board of Adjustment under the same procedure described for appeals in zoning cases.

(b) After the adoption of the official map showing the lines of planned or mapped streets, no change in any street shall be made by the County Council until such proposed change shall have been submitted to the Department for its opinion as to conformity with the official map. Pending the adoption of the official map, the County Council shall not vacate, narrow or extend any existing street without having secured the opinion of the Department as to the propriety of such proposed action.

(c) The adoption of any street or street lines as part of the official map shall not, in and of itself, constitute and be deemed to constitute the opening or establishment of the street and acceptance of any land for street purposes, and shall not constitute the taking of any land.

(9 Del. C. 1953; 55 Del Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1309. Presumption of approval.

In the case of any matter required to be submitted to the Department or to the Planning Board, approval shall be presumed by the Department or Planning Board unless the Department or Planning Board shall have acted within 45 days of receipt thereof, unless a longer time shall have been allowed by the County Council.

(9 Del. C. 1953, § 1348; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1310. Legal effects of previously established road locations and road lines.

(a) All locations and lines of roads and other actions of the County related to subdivision of land and opening of roads legally established in New Castle County prior to January 3, 1967, and legally established prior to the adoption of an ordinance establishing an official map in accordance with §§ 1154, 1307 and 1308 of this title, shall remain in full force and effect until changed in accordance with Chapter 11 of this title. Any county maps or records showing the locations and lines of roads, and dealing with other matters related to the subdivision of land, and legally established prior to January 3, 1967, shall continue in force and effect until changed in accordance with this chapter and Chapter 11 of this title.

(b) Pending the enactment of an ordinance establishing the location and lines of roads in accordance with Chapter 11 of this title and this chapter, changes in locations and lines of roads, legally established, and in the locations and lines of new roads shall be recorded only after approval by the County Council and shall be presented to the Department for review before such changes or new locations and lines are adopted by the County Council. Such changes, or new locations and lines shall also be presented to the State Department of Transportation for approval before being adopted by the County Council, provided that the approval of the State Department of Transportation shall be presumed should the County Council have received no communication to the contrary within 30 days of submission of the changes or new locations and lines to the State Department of Transportation. The approval of a plan or proposal by the County Council to make changes in locations and lines of existing roads or creating new roads shall, when recorded, be deemed and taken as an acceptance of the intended locations and lines of roads, but shall not impose any duty upon the County Council or upon the State Department of Transportation respecting the maintenance or improvement thereof.

(c) No plat of land changing locations and lines of roads legally established, or creating locations and lines of new roads, shall be received or recorded by the Recorder of Deeds of New Castle County until the plat shall have been submitted to and approved by the Department and the County Council and such approvals are endorsed in writing on the plat by the general manager and the President of the County Council. The filing or recording of a plat without the approval of the general manager of the Department of Land Use and the County Council shall, upon application of the general manager of the Department of Land Use or the County Council to the Superior Court in and for New Castle County, be expunged from the records.

(d) The County Council may prescribe a schedule of fees based on the cost to the County for considering proposed plats to be paid by those submitting the plats. The County Council may prescribe reasonable rules and regulations governing the size and character of plats to be submitted for consideration and the information to appear on the plats and the markers, boundary stones or stations to be installed.

(e) Pending the enactment of an ordinance establishing an official map or regulating the development or subdivision of land as provided by this chapter, the Department shall approve or disapprove a plat within 40 days after the submission thereof; otherwise, such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Department on demand. Such period may be extended by mutual agreement between the Department and the applicant for the Department's approval. The grounds of disapproval of any plat shall be stated upon the records of the Department and a copy of such statement shall be furnished to the applicant. No plat shall be acted upon by the Department without affording a hearing thereon. Notice of the time and place of the hearing shall be sent by registered mail to such applicant not less than 5 days before the date fixed therefor. In the application the applicant may waive the requirement of such hearing and notice.

(9 Del. C. 1953, § 1349; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59.)

## § 1311. Board of Adjustment.

The Board of Adjustment shall consist of 7 members who shall be residents of New Castle County who shall have knowledge of, and experience in, the problems of urban and rural development, and who, at the time of appointment, shall not be candidates or candidates-elect for, or incumbents of, elective public office. The County Executive, with the advice and consent of the County Council, shall appoint 6 members for terms of 4 years. The County Executive, with the advice and consent of the County Council, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of the County Executive. The compensation of the members of the Board of Adjustment shall be determined by the County Council.

(9 Del. C. 1953, § 1350; 55 Del. Laws, c. 85, § 2; 59 Del. Laws, c. 139, § 1; 71 Del. Laws, c. 401, § 59; 72 Del. Laws, c. 165, § 1; 73 Del. Laws, c. 39, § 1.)

## § 1312. Regulations governing organization, procedure and jurisdiction of the Board of Adjustment.

The Board of Adjustment shall adopt regulations to govern the organization, procedure and jurisdiction of the Board. The regulations shall not be inconsistent with this title and shall not become effective unless and until approved by the County Executive.

(9 Del. C. 1953, § 1351; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1313. Jurisdiction of Board of Adjustment.

(a) The Board of Adjustment shall be empowered to hear and decide:

(1) Appeals in zoning matters where error is alleged in any order, requirement, decision or determination made by an administrative officer or agency in the enforcement of any zoning ordinance, code, regulation or map;

(2) Applications for special exceptions or special permits or other special questions in accordance with any zoning ordinance, code or regulation, or applications for interpretation of any zoning ordinance, code, regulation or map upon which the Board of Adjustment is empowered to pass; and

(3) In specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinance, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, code or regulation shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation or map.

(b) A variance which permits a use otherwise prohibited by any zoning ordinance, code or regulation shall not be valid unless approved by resolution of the County Council. Use variances to be approved by the County Council shall be advertised and affected state agencies, including but not necessarily limited to the departments of Transportation and Natural Resources and Environmental Control, shall be notified by registered mail, return receipt requested, at least 30 days prior to hearing scheduled before the Board of Adjustment. Said use variance shall thereafter be presented to the County Council at the next scheduled meeting following approval by the Board of Adjustment, advertisement and notification as provided herein.

(c) The County Council shall approve or disapprove the use variance or return the matter to the Board of Adjustment for further hearings and findings consistent with this section.

(d) Appeals from decisions of the County Council shall be to Superior Court as heretofore provided for appeals from decisions of the Board of Adjustment.

(e) In the exercise of its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made, and, to that end, it shall have all powers of the officer or agency from whom the appeal was taken.

(f) Notwithstanding the provisions of subsection (a) of this section, the Department of Land Use may administratively grant a dimensional variance for existing conditions that do not exceed 1 foot of the required dimension restrictions without the application being considered by the Board of Adjustment.

(9 Del. C. 1953, § 1352; 55 Del. Laws, c. 85, § 2; 66 Del. Laws, Sp. Sess., c. 197, § 1; 71 Del. Laws, c. 401, § 59; 72 Del. Laws, c. 302, § 1.)

## § 1314. Judicial review of Board of Adjustment decisions; procedure.

(a) Any person aggrieved by any decision of the Board of Adjustment, or any taxpayer or any officer, department, board or bureau of the County, may present to the Superior Court a petition duly verified alleging that such decision is illegal in whole or in part, and specifying the grounds of illegality. The petition shall be presented within 30 days after the filing of the decision in the office of the Board.

(b) Upon the presentation of the petition, the Court may allow a writ of certiorari directed to the Board of Adjustment, to review the decision of the Board, and shall prescribe therein the time within which return must be made and served upon the petitioner or petitioner's attorney, which shall not be less than 10 days and may be extended by the Court.

(c) The allowance of the writ shall not stay proceedings upon the decision reviewed, but the Court may, on application, on notice to the Board of Adjustment and on due cause shown, grant a restraining order.

(d) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision reviewed and shall be verified.

(e) If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct, and report the same to the Court together with its findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made.

(f) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(g) Costs shall not be allowed against the Board of Adjustment unless it shall appear to the Court that the Board acted with gross negligence or in bad faith or with malice in making the decision reviewed.

(9 Del. C. 1953, § 1353; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1315. Board of License Inspection and Review.

County Council, by ordinance, may provide for the establishment of a Board of License Inspection and Review. The Board of License Inspection and Review shall have 5 members to be appointed by the County Executive, 4 members for terms of 4 years provided that the terms of the original members shall be established in a manner that 1 shall expire each year, and 1 member to be chairperson and

to serve at the pleasure of the County Executive. The ordinance shall provide that the Board may be authorized to provide an appeal procedure whereby any person aggrieved by the issuance, transfer, renewal, refusal, suspension, revocation or cancellation of any County license, or by any notice, order or other action as a result of any County inspection affecting him or her directly shall, upon request, be furnished with a written statement of the reasons for the action taken and afforded a hearing thereon by the Board. The ordinance shall further provide that upon such hearing the Board shall hear any evidence which the aggrieved party or the County may desire to offer, shall make findings and render a decision in writing within 90 days of the filing of the appeal, and that the Board may affirm, modify, reverse, vacate or revoke the action from which the appeal was taken to it.

(9 Del. C. 1953, § 1363; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59.)

### § 1316. Board of Building Standards.

County Council, by ordinance, may provide for the establishment of a Board of Building Standards. The Board of Building Standards shall have 5 members to be appointed by the County Executive, 4 members for terms of 4 years provided that the terms of the original members shall be established in a manner that 1 shall expire each year, and 1 member to be chairperson and to serve at the pleasure of the County Executive. The ordinance shall provide that the Board shall be given the power to perform the following functions, or such portion of them as the County Council may determine:

(1) Advise the general manager of the Department of Land Use, upon request, about the interpretation of the building code or of any regulation relating to building safety and sanitation;

(2) Suggest regulations applying standards of good practice in the enforcement of statutes and ordinances dealing with building safety and sanitation;

(3) Upon request of the general manager of the Department of Land Use, review and issue a report regarding new and substitute materials proposed to be used in the building construction and upon new methods of construction;

(4) Consider any suggested changes in standards and regulations, new and substitute materials, or new methods of construction, either with or without holding public hearings, but before the Board shall recommend any change or modification of such standards and regulations, it shall hold a public hearing at which all interested parties may present their views. After such public hearing, the Board shall submit its findings and recommendations to the general manager of the Department of Land Use for approval, whereupon they shall become a part of the standards and regulations.

(9 Del. C. 1953, § 1364; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

### § 1317. Board of Assessment Review.

Transferred to § 1371A of this title by 84 Del. Laws, c. 412, § 4, effective Sept. 19, 2024.

### § 1318. Functions of Board of Assessment Review.

Transferred to § 1371B of this title by 84 Del. Laws, c. 412, § 4, effective Sept. 19, 2024.

### § 1319. Appointment and duties of additional Board members and referees.

Transferred to § 1371C of this title by 84 Del. Laws, c. 412, § 4, effective Sept. 19, 2024.

### § 1320. Judicial review.

Transferred to § 1371D of this title by 84 Del. Laws, c. 412, § 4, effective Sept. 19, 2024.

### § 1321. General provisions relating to assessment.

Transferred to § 1371E of this title by 84 Del. Laws, c. 412, § 4, effective Sept. 19, 2024.

### § 1322. Assessment of property.

Transferred to § 1371F of this title by 84 Del. Laws, c. 412, § 4, effective Sept. 19, 2024.

### § 1323. Obligations and rights of property owners.

The adoption of this subchapter shall in no manner increase the responsibility of such property owner nor deny the property owner of any right possessed prior to May 26, 1965, except to the extent specifically provided in this subchapter.

(9 Del. C. 1953, § 1312; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 84 Del. Laws, c. 412, § 2.)

## Subchapter II

## Police Department

### § 1331. County police; powers and duties.

(a) The County police shall have all of the police powers conferred by law upon law-enforcement officers in the State and all of such police may exercise such police powers anywhere in New Castle County. All police appointed under this section shall see that the peace and good order of the State within the aforesaid County be duly kept according to their powers and authority; shall arrest all persons who shall in either of their presence commit any riot, affray or other breach of peace, or who shall be riotously assembled, and take them before a justice of the peace in the respective hundred where the person is apprehended to be dealt with according to law; shall use diligence in

arresting murderers, thieves and other felons, and disturbers of the peace, and in case of resistance to either of their authority, or other case of necessity, may command aid of any of the people of the State; shall duly prevent all bloodsheds, affrays and breaches of the peace; and shall execute all other duties in accordance with the law. Such police shall patrol said hundreds during such hours, under such conditions and in such manner as may be prescribed by the Chief of Police of New Castle County.

(b) The County police shall be subject to such directives and policies as the Chief of Police may prescribe.

(c) No merger of the New Castle County police with any other police force or agency shall be valid unless and until approved by the General Assembly.

(71 Del. Laws, c. 401, § 59.)

## § 1332. Functions.

(a) The Police Department, managed by a Chief of Police, shall perform the following functions;

(1) Organize, administer, supervise and discipline the police force of the County;

(2) Enforce traffic regulations and investigate accidents;

(3) Make legal searches, seizures and arrests, and exercise such legal authority incident thereto;

(4) Maintain and operate lockups for the temporary confinement of prisoners;

(5) Maintain peace, protect life, property and all other rights and liberties of the people, and do and perform all other lawfully assigned acts; and

(6) Operate and maintain an integrated communications system designed to facilitate the prompt, efficient and effective performance of its function.

(b) The Police Department may perform the following functions:

(1) Provide school crossing guard service in the manner and to the extent authorized by ordinance;

(2) Prepare and maintain a County comprehensive emergency operations plan and other plans as appropriate to provide guidance and direction to units of the County Council, and which are integrated into and coordinated with emergency management plans of the federal government, State and political subdivisions in New Castle County;

(3) Except for those activities and responsibilities which are under the jurisdiction of the State Fire Prevention Commission, operate an emergency medical service for individuals who become unexpectedly ill or incapacitated, to include the provision of advanced life support paramedic services; and

(4) Establish other functions related to public safety, in coordination with the fire, rescue and other emergency service organizations in New Castle County.

(9 Del. C. 1953, § 1401; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1333. Other police prohibited.

No office, department or board operating for the County, other than the Police Department, shall have a police force.

(9 Del. C. 1953, § 1402; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1334. County responsibility for fire protection and ambulance and rescue service.

The County Council of New Castle County may make provisions for emergency medical services and the prevention and extinguishment of fires. For such purposes, the County Council of New Castle County may contract with any fire company authorized by the State Fire Prevention Commission, and in such case may make reasonable payments thereto. Provisions for emergency medical services and fire prevention and extinguishment shall be made cooperatively with the State Fire Prevention Commission and the Office of Emergency Medical Services.

(9 Del. C. 1953, § 1411; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1335. Fire prevention outside of incorporated towns.

The County Council of New Castle County may make provisions for the prevention and extinguishment of fires in New Castle County outside of the corporate limits of any incorporated city or town, and for such purpose enter into contracts with any fire company authorized by the State Fire Prevention Commission for the supplying of water, property and services necessary or incident to the prevention and extinguishment of such fires including the services of any incorporated fire company operating and maintaining apparatus for the extinguishment of fires within New Castle County.

(71 Del. Laws, c. 401, § 59.)

## § 1336. Establishment of school crossing guard unit for New Castle County.

Upon the authorization of the County Council, the Police Department of New Castle County may appoint and maintain, within each school district, after approval of each school district in New Castle County, school crossing guards, in such number as may, in the judgment of the school district, be necessary for the safe passage of school children over the public streets and highways of New Castle County outside the City of Wilmington.

(71 Del. Laws, c. 401, § 59.)

### § 1337. Duties; compensation; uniform.

(a) The school crossing guards appointed under this chapter shall be stationed at locations adjacent to the schools or at any other locations deemed necessary as directed by the Police Department for the purpose of assisting school children in safe passage across streets and highways.

(b) The guards shall have the right to stop, control and guide vehicular traffic near any pedestrian crosswalk in order to permit children to cross safely the streets and highways.

(c) In instances where the driver of a motor vehicle fails to comply with the lawful directions or signals of a school crossing guard, or otherwise violates a lawful ordinance or statute, the school crossing guard may report such driver to the appropriate police authorities. If the identity of the driver is not otherwise apparent, it shall be a rebuttable presumption that the person in whose name the vehicle is registered, to whom a rental vehicle is leased or whose name appears on a company's records as driving a company car is responsible for the violation.

(d) The guards shall be subject to such rules and regulations as prescribed by the Police Department.

(e) The Police Department shall provide and maintain an appropriate uniform.

(71 Del. Laws, c. 401, § 59.)

### § 1338. Coordination with school boards.

In the selection and assigning of crossing guards the Police Department shall seek the advice and assistance of the school boards of the respective districts in which the crossing guards shall be employed.

(71 Del. Laws, c. 401, § 59.)

### § 1339. Levy and collection of tax.

(a) In order to carry out this chapter, the County Council of New Castle County may levy in any school district with respect to which school crossing guards are furnished, an annual tax based upon the full annual cost including the salaries and maintenance of school crossing guards employed within said school district.

(b) Such taxes shall be collected by the same collector, at the same time and in the same manner as other County taxes.

(71 Del. Laws, c. 401, § 59.)

## Subchapter III

## Department of Special Services

### § 1341. Functions.

The Department of Special Services, managed by the general manager of the Department, who shall be qualified for the position by education, experience and training, may perform the following functions:

(1) In cooperation with the Department of Land Use, manage and develop plans for public facilities and infrastructure including sanitary sewers and treatment facilities, drainage systems, buildings, parks, open spaces, natural areas and greenways for the County in accordance with, and in support of, the Comprehensive Plan.

(2) Prepare designs and specifications for all types of public facilities and infrastructure including sanitary sewers and treatment facilities, drainage systems, buildings, parks, open spaces, natural areas and greenways, and supervise the construction and inspection thereof.

(3) Assist the Office of Administrative Services in the tabulation of bids and in the determination of the lowest and best bidder with respect to all public facilities and infrastructure including sanitary sewers and treatment facilities, drainage systems, buildings, parks, open spaces, natural areas and greenways, and, upon request of the Office of Administrative Services, with respect to materials, supplies and equipment.

(4) Manage, maintain and operate public facilities and infrastructure sanitary sewers and treatment facilities, drainage systems, parks, open spaces, natural areas and greenways, and perform all county functions related thereto, provided that such functions may be performed directly, by contract, or by licenses as the County Council by ordinance may from time to time determine. This shall include the ability to execute a lease for the purpose of erecting, maintaining and operating wireless communications facilities, for any part of park land or land held in public trust. The County may not enter into an exclusive arrangement with any person for the purpose of erecting, maintaining and operating wireless communications facilities on park land or land held in public trust. The County may not enter into an agreement for the purpose of erecting, maintaining and operating wireless communications facilities on park land or land held in public trust without a bona fide commitment from a wireless service provider to occupy a facility. All leases for wireless communications facilities on park land or land held in public trust must be approved by County Council by resolution. All such leases must contain a provision that, upon the termination or expiration of the lease, the County may require removal of such wireless communication facilities and the property returned to its previous state, consistent with park and recreational purposes.

(5) Manage, maintain and operate any county public water supply system.

(6) Manage, maintain and operate all public buildings, except those which by agreement with other governmental jurisdictions are to be otherwise operated and maintained and any building which shall be designated by the County Executive to be excluded from the responsibility of the Department for maintenance or operation, provided that such functions may be performed directly, by contract, or by licenses as the County Council by ordinance may from time to time determine.

(7) Manage and maintain the County Fleet and operate central garages for the storage and maintenance of equipment, and maintain all automotive equipment, except those that may be specified in writing by the County Executive for maintenance by some other office, department or board, provided that such functions may be performed directly, by contract or by licenses as the County Council by ordinance may from time to time determine.

(9 Del. C. 1953, § 1421; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 82 Del. Laws, c. 109, § 1.)

### § 1342. Department of Special Services Board.

The Department of Special Services Board shall consist of 9 members. The County Council, with the advice and consent of the County Executive, shall appoint 8 members, who shall serve for a term of 3 years, provided that the terms of the original members shall be established in a manner that 3 shall expire each year. The County Executive, with the advice and consent of the County Council, shall appoint a chairperson who shall serve at the pleasure of the County Executive.

The Board shall advise the general manager at the Department of Special Services on issues related to the functions of the Department.

Subcommittees that are directly related to functions of the Department may be established.

Board members shall be persons of recognized character and ability who meet the qualifications of the Department.

Five members of the Board constitute a quorum. A quorum is required for any action or recommendation of the Board.

(71 Del. Laws, c. 401, § 59.)

## Subchapter IV

## Department of Community Services

### § 1351. Functions.

The Department of Community Services, managed by the general manager of the Department, who shall be qualified for the position by education, experience and training, may perform the following functions:

(1) Undertake and execute or supervise the execution of all programs related to library functions, recreational/sports and athletic activities, community development and housing, senior programs, and any or all other community related programs authorized by County administrators;

(2) Administer community services programs offering every resident of New Castle County equal access to services, resources and guidance in their use;

(3) Receive, accept, administer and expend, according to the County budget, any moneys, materials or other aid granted, appropriated or otherwise provided by local, state or federal governments by any source, public or private, in accordance with the terms thereof, for the purposes provided in this division;

(4) Plan, supervise and conduct a program of parks and park-related activities for all of the parks in the County; and

(5) Perform all other activities pertinent to its organizational functions.

(71 Del. Laws, c. 401, § 59.)

### § 1352. Department of Community Services Board.

The Department of Community Services Board shall consist of 9 members. County Council, with the advice and consent of the County Executive, shall appoint 8 members, who shall serve for a term of 3 years, provided that the terms of the original members shall be established in a manner that 3 shall expire each year. The County Executive, with the advice and consent of the County Council, shall appoint a chairperson who shall serve at the pleasure of the County Executive.

The Board shall advise the general manager of the Department of Community Services on issues relating to the functions of the Department.

Subcommittees that are directly related to functions of the Department may be established.

Board members shall be persons of recognized character and ability who meet the qualifications of the Department.

Five members of the Board constitute a quorum. A quorum is necessary for any action or recommendation of the Board.

The Library Advisory Board shall serve as a subcommittee to the Department of Community Services Board. Two members of the Library Advisory Board shall be appointed to the Department of Community Services Board. The chairperson of the Library Advisory Board shall recommend 2 sitting members of the Board for consideration by the County Council for County Council appointments to the Department of Community Services Board.

(71 Del. Laws, c. 401, § 59.)

## Subchapter V
## Department of Administration

### § 1361. Office of Administrative Services; functions.

The Office of Administrative Services, managed by the Chief Procurement Officer, who shall be qualified for the position by education, experience and training, may perform the following functions:

(1) The Purchasing Section is responsible for obtaining goods and services for public purposes according to the laws and procedures intended to provide for the economical expenditures of public funds.

(2) The Information Systems Section provides technical leadership to the County by assisting the departments in meeting their business requirements through equipment and application software.

(3) The Mail Distribution and Printing Section provides full mail service and in-house printing services to all County agencies.

(71 Del. Laws, c. 401, § 59.)

### §§ 1362-1370. [Reserved].

### § 1371. Office of Finance; functions.

The Office of Finance, managed by the Chief Financial Officer, who shall be qualified for the position by education, training and experience, may perform the following functions:

(1) Prepare tax rolls and bills, including those required by any municipality, school district, or special district lying within or partially within the County if so authorized by law or such districts;

(2) Collect all taxes, license and permit fees, and other moneys that may be due to or receivable by the County, or any of its offices, departments or boards, provided that the Chief Financial Officer may, by rule, authorize the receipt of moneys directly by offices, departments, or boards, or may assign employees of departments to make such collections;

(3) Collect, when directed or authorized by law, all taxes, license and permit fees, and other moneys that may be receivable by the State, or by any public office, department or board not subject to the provisions of this title;

(4) Institute proceedings for the sale of taxable property upon which taxes are not paid within the period prescribed by law;

(5) Issue appropriate bills, assist in the issuance and servicing of indebtedness in connection with assessable improvements, and be responsible for the collection, custody, and payment of all moneys in connection therewith;

(6) Issue receipts for moneys collected by the Office;

(7) Maintain the treasury of the County, and deposit the moneys belonging thereto or in the custody thereof in any depository bank, to the credit of the County;

(8) Designate, with the approval of the Clerk of the County Council, the bank or banks to be used as County depositories and require them to fulfill all conditions prescribed by law or ordinance;

(9) Invest funds deemed by the Chief Financial Officer available for temporary investment in such obligations or in such manner as the County Executive may authorize;

(10) Assist in the issuance of all general and special bonds or other evidence of indebtedness of the County and service such debt in accordance with law and terms of indentures relating thereto;

(11) Make disbursements and payments of claims that it finds to be in correct amount, and justly due, and in accordance with prior authorizations adopted under the terms of the title or other state law;

(12) Prepare payrolls and supervise the preparation of related documents;

(13) Prepare and issue all checks;

(14) Keep accurate and complete accounts of all receipts and disbursements;

(15) Provide information pertaining to the financial affairs of the County;

(16) Assess all property subject to taxation by the County and maintain appropriate records;

(17) Prepare tax rolls, including those required by any municipality, school district, or special district lying within or partially with the County if authorized by law or such districts;

(18) Prepare the necessary assessment rolls of assessable public improvements;

(19) Perform such other functions as may be required of the Chief Financial Officer by this title, or other state law, or which may be assigned in writing by the County Executive.

(9 Del. C. 1953, § 1301; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 84 Del. Laws, c. 412, § 3.)

### § 1371A. Board of Assessment Review.

The New Castle County Council, by ordinance, shall establish the Board of Assessment Review.

(1) The Board of Assessment Review consists of 9 regular members and 3 alternate members, as follows:

a. Eight regular members and 3 alternate members appointed by the County Council, subject to the following:

1. Each individual must be a resident and freeholder of the County.

2. Each individual appointed or reappointed after May 24, 2018, is appointed for a term of 4 years.

b. One regular member appointed by the County Executive with the advice and consent of the County Council, who serves at the pleasure of the County Executive.

c. The member appointed under paragraph (1)b. of this section shall be the Chair.

(2) Each member is entitled to renumeration as determined by the County Council.

(9 Del. C. 1953, § 1307; 55 Del. Laws, c. 85, § 2; 57 Del. Laws, c. 264, §§ 12, 13; 57 Del. Laws, c. 303, §§ 11, 12; 58 Del. Laws, c. 559, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 78 Del. Laws, c. 33, § 1; 81 Del. Laws, c. 248, § 1; 84 Del. Laws, c. 412, § 4.)

## § 1371B. Functions of Board of Assessment Review.

The Board shall perform all of the following functions:

(1) Hear appeals from any property owner who alleges that the property owner's property has been improperly assessed for purposes of taxation.

(2) Following the hearing of any property owner and, in the light of the facts produced at such hearing, determine whether the assessment is correct. If the Board should find that the assessment is greater than it should be, the Board shall order the Chief Financial Officer to reduce the assessment and the Chief Financial Officer shall thereupon reduce the assessment to the adjusted amount established by the Board.

(3) Review the methods by which the Chief Financial Officer has established the assessments and the results thereof as reflected by the assessment roll. If the Board should find that the procedures used by the Chief Financial Officer require improvement in order to make more equitable and effective the assessment procedure, the Board shall make such recommendations as it deems proper to the Chief Financial Officer and file a copy thereof with the Clerk of the County Council.

(4) Prepare such rules and regulations for its operation as it deems appropriate.

(9 Del. C. 1953, § 1308; 55 Del. Laws, c. 85, § 2; 58 Del. Laws, c. 559, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 81 Del. Laws, c. 248, § 2; 84 Del. Laws, c. 412, § 4.)

## § 1371C. Appointment and duties of additional Board members and referees.

(a) [Repealed.]

(b) The County Council may, by ordinance, authorize appointment of referees to hear appeals of property assessments. The Chief Financial Officer shall appoint, with the advice and consent of the County Council, such referees as are authorized by ordinance. Referees appointed under this section must possess sufficient qualifications concerning the valuation of real property as determined by County Council.

(c) Appeals may be heard by panels of 3 or more members of the Board or by the referees individually when the referees are so authorized pursuant to subsection (b) of this section. The panel or the referee shall submit a recommendation to the Board which shall determine whether the assessment is correct based upon the record of the appeal hearing and the recommendation of the panel or the referee.

(d) Referees must be paid as provided by the County Council.

(9 Del. C. 1953, § 1307A; 58 Del. Laws, c. 559, § 1; 60 Del. Laws, c. 45, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 78 Del. Laws, c. 33, § 2; 81 Del. Laws, c. 248, § 3; 83 Del. Laws, c. 223, § 2; 84 Del. Laws, c. 412, § 4.)

## § 1371D. Judicial review.

Nothing in this chapter shall be construed as limiting the right of a property owner or County to appeal to the courts in connection with the assessment of property for taxation as provided by law.

(9 Del. C. 1953, § 1309; 55 Del. Laws, c. 85, § 2; 58 Del. Laws, c. 559, § 5; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 84 Del. Laws, c. 412, § 4.)

## § 1371E. General provisions relating to assessment.

It is the intent of this subchapter that in New Castle County, the Office of Finance shall perform all of the functions assigned to the Board of Assessment Review, except for the functions specifically assigned to the Board of Assessment Review by § 1371B of this title.

(9 Del. C. 1953, § 1310; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 81 Del. Laws, c. 248, § 4; 84 Del. Laws, c. 412, § 4.)

## § 1371F. Assessment of property.

(a) In the performance of the functions relating to the assessment of property, the Office of Finance shall exercise the assessment functions assigned to the Board of Assessment Review prior to May 26, 1965. To this end, not later than February 15 of each year, the Office of Finance shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The Office of

Finance shall determine the form of the assessment roll. The County Council of New Castle County shall by ordinance establish the dates during which appeals from assessments of the Office of Finance to the Board of Assessment Review may be heard.

(b) Not later than April 30 of each year, the Office of Finance shall certify to the Chief Financial Officer a true and correct assessment roll for the year. Not later than May 31 of each year, the Chief Financial Officer shall certify to the County Council the total value of all property in the County and the total value of all property which has been assessed and is subject to taxation.

(c) The Office of Finance shall determine by rule, the form, number of copies, and other details concerning the keeping of records relating to assessment of real property and improvements thereupon. The Office of Finance shall develop a suitable system for the identification of all real property within the County, both that which is subject to taxation and that which is exempt from taxation. Such system must be in a form that readily permits the subdivision of property, or the reassembly of property, without loss of control thereof for purposes of assessment.

(d) Notwithstanding any provision of this title, for any fiscal year in which the County Council of New Castle County proposes to implement a general reassessment of property, the County Council may by ordinance establish appropriate and reasonable time periods for the filing of exemption applications; submission, inspection, and certification of assessment rolls; notices of assessments; appeals from such assessments; and any other requirements relating to the implementation of the general reassessment. The County Council may not extend any such period more than 30 days beyond that otherwise established in this title. This authorization applies only to the fiscal year in which the general reassessment is implemented. In each fiscal year thereafter, the procedures specified in this title must be followed.

(9 Del. C. 1953, § 1311; 55 Del. Laws, c. 85, § 2; 58 Del. Laws, c. 559, § 4; 65 Del. Laws, c. 1, § 1; 71 Del. Laws, c. 401, § 59; 81 Del. Laws, c. 248, § 5; 84 Del. Laws, c. 412, § 4.)

## § 1372. Sworn information.

The Chief Financial Officer may require from any officer or employee of the County, or any claimant, such sworn information as may be necessary for the proper performance of the functions of the Office.

(9 Del. C. 1953, § 1302; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1373. General provisions relating to levy, billing and collection of taxes.

It is the intent of this subchapter that in New Castle County, the Office of Finance shall perform all of the functions assigned to the Receiver of Taxes and County Treasurer under this title prior to January 3, 1967.

(9 Del. C. 1953, § 1310; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1374. Obligations and rights of property owners.

The adoption of this subchapter shall in no manner relieve any property owner of any obligation imposed upon a property owner prior to May 26, 1965, with respect to the assessment of any property or the payment of any tax nor shall it in any manner increase the responsibility of such property owner nor deny a property owner any right possessed prior to May 26, 1965, except to the extent specifically provided in this subchapter.

(9 Del. C. 1953, § 1312; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 84 Del. Laws, c. 412, § 5.)

## § 1375. Collection of taxes.

The Office shall be responsible for the collection of all taxes, whether current or delinquent, and to that end shall perform all of the responsibilities with respect to collection and enforcement of collection vested prior to May 26, 1965, in the Receiver of Taxes and County Treasurer. To this end, the Office shall be entitled to the use of and shall be responsible for the application of all processes of law available prior to May 26, 1965, to the Receiver of Taxes and County Treasurer.

(9 Del. C. 1953, § 1313; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1376. Records of tax delinquencies.

The Office shall maintain a suitable record of the payment or nonpayment of taxes with respect to each parcel of real property in the County.

(9 Del. C. 1953, § 1314; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1377. Audit of accounts.

Each year the County Auditor shall audit the accounts of the Department to determine whether they properly reflect all payments and delinquencies of taxes which shall have been levied.

(9 Del. C. 1953, § 1315; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## §§ 1378-1380. [Reserved].

## § 1381. Office of Human Resources; functions.

The Office of Human Resources, managed by the Chief Human Resources Officer, who shall be qualified for the position by education, experience and training, shall perform the following functions.

(1) Divide all County officers and employees into unclassified or classified service, and assign all classified employees into position classifications, based on duties performed and responsibilities assumed;

(2) Establish a uniform pay plan for all classified employees based on the classification of the position held;

(3) Regulate employment and promotion according to competency and fitness, to be ascertained when possible by competitive examination and, when not, by due consideration to qualifications and record performance;

(4) Establish tenure for all classified employees, providing for discipline, demotion and discharge for just cause only, with right of employee appeal through provisions outlined in the New Castle County Code; and

(5) Create uniform provisions governing provisions of related sections of the New Castle County Code.

(9 Del. C. 1953, § 1451; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1382. Continuance of present system.

Any system of human resource administration with respect to the employees of New Castle County which shall be in effect on January 3, 1997, shall remain in effect until the County Council has acted in accordance with this subchapter.

(9 Del. C. 1953, § 1452; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1383. Human Resources Advisory Board [For application of this section, see 85 Del. Laws, c. 305 § 2].

(a) County Council, by ordinance, shall provide for the establishment of a Human Resources Advisory Board. The Board shall consist of 7 members appointed by the County Executive, with the advice and consent of the County Council, who shall serve for terms of 4 years or until their successors are appointed.

(b) The ordinance shall further provide all of the following:

(1) The members of the Board must be residents of New Castle County.

(2) The members of the Board must be persons of recognized character and ability whose experience provides knowledge of human resources practices and procedures and knowledge and support of merit principles as applied to public employment.

(3) A member of the Board may not be a member of any local, state, or national committee of a political party or an officer or a member of a committee of any partisan or political group, or hold or be a candidate for any political office.

(4) The members of the Board must be registered voters of the County and no more than 4 of the members may be of the same political party.

(c) The ordinance shall further provide that the members of the Board shall elect 1 of their number to serve as chair, and that the members are entitled to compensation as established by ordinance, with the number of meetings determined by the chair, as needed, in consultation with the Board and the Administration.

(71 Del. Laws, c. 401, § 59; 85 Del. Laws, c. 305, § 1.)

## § 1384. Pension plan for employees.

New Castle County may, by ordinance, establish a contributory funded pension program which shall be comprised of a qualified pension plan or plans as defined under the Federal Internal Revenue Service Code and Regulations.

(71 Del. Laws, c. 401, § 59.)

## §§ 1385-1390. [Reserved].

## § 1391. Office of Law; functions.

The Law Office, managed by the County Attorney, shall perform the following functions:

(1) Serve as chief legal advisor to the County Executive, County Council and all County departments, boards, offices and agencies;

(2) Represent the County in all legal proceedings;

(3) Perform any other duties prescribed by this title or by ordinance of the County Council.

(9 Del. C. 1953, § 1441; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1392. Appointment of County Attorney.

The County Attorney shall be appointed by the County Executive with the advice and consent of the New Castle County Council. The County Attorney shall serve at the pleasure of the County Executive.

(9 Del. C. 1953, § 1442; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 83 Del. Laws, c. 132, § 2.)

## § 1393. Qualifications of County Attorney.

The County Attorney and all Assistant County Attorneys shall be members of the Delaware Bar.

(9 Del. C. 1953, § 1443; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1394. Assistant County Attorneys and other legal professionals employed with New Castle County.

The County Attorney shall appoint such Assistant County Attorneys as may be authorized by the County Council. The Assistant County Attorneys and other legal professionals appointed by the County Attorney shall serve at the pleasure of the County Attorney unless and until such time as they may attain tenure as County Council may provide for by ordinance. First Assistant County Attorneys shall be selected according to provisions of the Merit System of the New Castle County Code.

(9 Del. C. 1953, § 1444; 55 Del. Laws, c. 85, § 2; 67 Del. Laws, c. 301, § 1; 71 Del. Laws, c. 401, § 59; 73 Del. Laws, c. 376, § 1; 85 Del. Laws, c. 314, § 1.)

## § 1395. Compensation of County Attorney.

The annual salary of the County Attorney and each Assistant County Attorney shall be determined by the County Executive.

(9 Del. C. 1953, § 1445; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1396. Other employees.

The County Council may provide for such employees as may be necessary to perform the functions required by this title.

(9 Del. C. 1953, § 1446; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59.)

## § 1397. Subpoena power.

(a) Whenever the County Attorney has reasonable cause to believe that any person or enterprise may have knowledge of, has been engaged in or is engaging in any conduct in violation of County laws, ordinances, regulations or any state law prohibiting violations of County laws, ordinances or regulations, the County Attorney may, in the County Attorney's discretion, conduct an investigation of such conduct. The County Attorney is authorized before the commencement of any civil or criminal proceeding related to the violation of county laws, ordinances, regulations or any state law prohibiting violations of the County laws, ordinances or regulations to subpoena witnesses. The County Attorney may issue in writing and cause to be served on any person an investigative demand to compel the attendance of witnesses, examine witnesses under oath, require the production of evidence or documentary materials and require answers to written interrogatories to be furnished under oath.

(b) The production of documentary material in response to an investigative demand served under this section shall be made pursuant to a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by an individual having knowledge of the facts and circumstances relating to the production of materials, which certificate shall affirm that all of the documentary material required by the investigative demand and in the possession, custody or control of the person to whom the demand is directed has been produced and made available to the custodian.

(c) The County Attorney may, in the County Attorney's discretion, require the production under this section of documentary materials prior to the taking of any testimony of the person subpoenaed. The required documentary materials shall be made available for inspection or copying during normal business hours at the principal place of business of the person served, or at such other time and place as may be agreed upon between the person served and the County Attorney.

(d) The examination of all persons pursuant to this section shall be conducted by the County Attorney or by a person designated in writing to be the County Attorney's representative, before an officer chosen by the County Attorney who is authorized to administer oaths in this State. The statements made shall be taken down stenographically, or by a sound-recording device, and shall be transcribed.

(e) No person shall, with intent to avoid, evade, prevent or obstruct compliance in whole or in part by any person with any duly served investigative demand of the County Attorney under this section, knowingly remove to any place, conceal, withhold, destroy, mutilate, alter or by any other means falsify any documentary material or materials that are the subject of the demand. A violation of this subsection is a class E felony. Any suspected violations of this section shall be referred to the Office of the Attorney General.

(f) In the event a witness subpoenaed under this section fails or refuses to appear, or to produce documentary materials as provided herein, or to give testimony relevant or material to an investigation, the County Attorney may petition the Superior Court in the County where the witness resides for an order requiring the witness to attend and testify, or to produce the documentary materials. Any failure or refusal by the witness to obey an order of the Court may be punishable by the Court as contempt.

(71 Del. Laws, c. 401, § 59.)

# Part II
# New Castle County

## Chapter 14
## The County Auditor

### § 1401. Selection, qualification, term, compensation and removal of the County Auditor.

(a) There is established, within the Government of New Castle County, the Office of the County Auditor the administrator and head of which shall be known as the County Auditor. The County Auditor shall be appointed by the County Council and may be removed at will by an affirmative vote of $^{2}/_{3}$ of the members thereof.

(b) The County Auditor shall be a certified public accountant and shall hold a bachelor's degree in accounting or related field of study. The functions and duties of the County Auditor shall be conducted in accordance with the most recent General Auditing Standards promulgated by the United States Accountability Office.

(c) The annual salary of the County Auditor shall be determined by the County Council after consideration of the Audit Committee's recommendation.

(d) The County Auditor shall not be actively involved in partisan political activities or the political affairs of New Castle County. The term "partisan-political activity" shall include but is not limited to: running for public office, serving as a party committee-person, working at a polling place on Election Day, performing volunteer work in a political campaign, soliciting contributions for political campaigns, and soliciting contributions for a political action committee or organization, but shall not include registering and voting in any election, expressing an opinion as an individual privately and publicly on political subjects and candidates, or involvement in nonpartisan or public community organizations or professional groups.

(9 Del. C. 1953, § 1321; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

### § 1402. Budget; Assistant County Auditors; Contract Auditors.

(a) County Council by ordinance may establish positions to serve as assistants to the County Auditor after consideration of the Audit Committee's recommendation.

(b) Notwithstanding any other provision of law governing the procurement of services by County Government or the officers thereof to the contrary, the County Auditor may, subject to available resources, freely obtain the services of certified public accountants, qualified management consultants, or other professional experts necessary to perform the County Auditor's duties; provided, however, that no conflicts of interest exist between or among those with whom the County Auditor contracts and any area of county government that might hinder the performance of the services sought.

(c) Any Assistant County Auditor who shall perform any auditing duties shall be a qualified accountant, a graduate of a college or university with a degree in accounting, or shall have otherwise received such training and experience as to provide an equivalent level of expertise with auditing experience preferred. Other assistants shall be qualified as set forth in job descriptions approved by County Council after consideration of the Audit Committee's recommendation.

(9 Del. C. 1953, § 1322; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

### § 1403. Certification of annual financial report of Chief Financial Officer.

(a) The County Auditor shall have a qualified accounting firm conduct an audit of the annual financial report of the Chief Financial Officer and append thereto a certificate which shall state whether, in the opinion of the accounting firm, the financial statements in the financial report:

(1) Contain a proper record of the County's financial transactions for the year;

(2) Properly reflect the current assets, liabilities, and funded debt of the County as of the close of the fiscal year; and

(3) Comply with generally accepted principals of governmental accounting.

(b) Should there be any qualifications or exceptions to any portion of the annual financial report of the Chief Financial Officer, they shall be stated by the accounting firm in an explicit manner in the certification appended to the audit conducted pursuant to subsection (a) of this section.

(c) A final draft of the report of qualifications or exceptions shall be provided to the Chief Financial Officer for review and comment regarding factual content before it is finalized and released. The Chief Financial Officer may respond in writing and specify agreement or disagreement with the findings and the reasons therefore. Written responses must be received within 30 days from the date of the final draft and shall be included in the final report. Alternatively, a revised final report may be issued incorporating suggested and accepted corrections. The absence of response within 30 days will be noted in the final report.

(9 Del. C. 1953, § 1323; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

## § 1404. Annual audits and the audit committee.

(a) The County Auditor shall oversee, coordinate, and monitor an annual audit of the accounts, books, and records of all offices, departments, and boards that reflect transactions involving financial activities and financial affairs of the County.

(b) The County Council shall establish or reconstitute as the facts and circumstances warrant, and appoint all members to, an Audit Committee which shall:

(1) Consist of 5 members all of whom possess the technical skills necessary to oversee the technical and complex financial reporting and audit process, and such members of the Committee will be appointed by County Council each for a term of 4 years, except that the terms of any reconstituted committee shall initially be established in a staggered manner so that 1 term expires after 2 years, 2 terms expire after 3 years, and 2 terms expire after 4 years. Appointment of members thereafter shall each be for a full 4-year term. When a vacancy occurs, the vacancy shall be filled for the balance of the unexpired term.

(2) Meet at least on a quarterly basis to consult with the County Auditor regarding:

a. The establishment of an audit schedule for the coming year,

b. The progress of ongoing audits,

c. Any necessary follow-ups to audits completed during the previous 12 months,

d. And any special needs expressed by the auditor or the Chief Financial Officer;

(3) Work throughout the year to assure the maximum coordination between and among the work of the County Auditor and the needs of the Chief Financial Officer, the County Council, and any external auditors who may have been employed under the authority of the County Auditor;

(4) Recommend to the County Council a salary schedule for the County Auditor.

(c) Annual audits may either be complete, or in such lesser degree as the County Auditor shall find acceptable to enable the County Auditor to express opinions concerning whether such transactions are in compliance with Generally Accepted Principals of Governmental Accounting as well as the appropriate ordinances, rules and regulations of the County Council, and other laws governing such transactions.

(d) Annual audits shall be completed, and a report thereupon produced, not later than the end of the sixth month following the completion of the fiscal year in which such transactions shall have occurred. Prior to the issuance of the audit report pursuant to this subsection, a final draft thereof shall be submitted to the audit committee for review and comment regarding factual content before it is released. The County Auditor shall make the final decision regarding all matters, facts, and opinions contained in the report.

(e) A final draft of the report shall be provided to the head of any affected office, department or board, the County Council President, the County Executive, the Chief Financial Officer, and the Audit Committee for review and comment regarding factual content before the report is finalized and released. Written responses must be received within 30 days from the date of the final draft and shall be included in the final report. Alternatively, a revised final report may be issued incorporating suggested and accepted corrections. The absence of response within 30 days will be noted in the final report.

(9 Del. C. 1953, § 1324; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2; 81 Del. Laws, c. 30, § 1.)

## § 1405. Reports of the County Auditor; audit follow up.

(a) Copies of the reports concerning each audit or examination shall immediately upon preparation thereof be filed with the Audit Committee, the County Executive, the Chief Administrative Officer, the Chief Financial Officer and the Clerk of County Council, except as set forth in subsection (b) of this section below.

(b) If during an audit the County Auditor shall at any time discover an unauthorized, illegal, irregular, or unsound financial practice that could affect the governmental entity, the County Auditor shall report the financial irregularities to the County Council, the County Executive, the Chief Administrative Officer, and the Audit Committee. If a member of Council, the County Executive, or the Chief Administrative Officer is believed to be a party to an unauthorized, illegal, irregular, or unsound financial practice, the County Auditor shall report the acts directly to the Audit Committee or the head of the branch of government unaffected by the report if a member of the Audit Committee is believed to be a party to the suspected irregularity. If it appears that the act is criminal in nature, the County Auditor shall immediately notify the County Attorney in addition to those previously cited; if an ethics code violation is suspected, the County Auditor shall immediately notify the Ethics Commission.

(c) The County Auditor, after consultation with the Audit Committee, shall from time to time make such recommendations as the County Auditor shall deem appropriate to any office, department or board for improvement in the management of the financial affairs of the County. Copies of such recommendations shall be filed with the County Executive and the County Council.

(d) The County Auditor shall follow-up on audit recommendations as possible to determine whether corrective measures have been implemented and may request period status reports regarding actions taken to address deficiencies and recommendations. Such will be reviewed by the Audit Committee for report to Council and the County Executive.

(9 Del. C. 1953, § 1325; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2; 85 Del. Laws, c. 68, § 15.)

## § 1406. Assistance to County Council.

The County Auditor shall provide such assistance to the County Council as the County Council may require of the County Auditor through request of a majority of Council or in the job description in any matter before it, including but not limited to any measure relating to the appropriation of funds by the County Council.

(9 Del. C. 1953, § 1326; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

## § 1407. Audit schedule; special examinations or audits; risk assessment review.

(a) Prior to the beginning of each fiscal year, the County Auditor shall submit an annual audit plan to the Audit Committee for review and comment. The plan shall include the proposed schedule for auditing departments, offices, boards, activities, agencies and subcontractors for the period. The plan and schedule may be amended during the period after consultation with the Audit Committee. The schedule and any amendments shall be provided to the Council and the County Executive.

(b) When directed by the County Executive, County Council, or the County Auditor's own initiative, and upon approval of the audit committee, the County Auditor may make, or may cause to be made by a qualified accounting firm, a special examination of any financial transaction or matter if the County Auditor has reasonable grounds to believe that any unauthorized, illegal, irregular, or unsound practice is being employed in association with the transaction or matter. The annual audit plan shall be amended to include any special audits that are approved by the Audit Committee. The revised audit plan shall be distributed to Council, the County Executive and the Chief Administrative Officer unless the Audit Committee determines that distribution to 1 of these entities would jeopardize the effectiveness of the special audit. If the County Auditor receives information regarding alleged financial improprieties and believes that disclosure to the Audit Committee would jeopardize or compromise the audit, the County Auditor may process but must advise the Audit Committee of the time commitment; the schedule still must be revised to reflect the addition of a confidential County Auditor-initiated audit and the revised schedule must reflect appropriate time parameters.

(c) The County Auditor will perform or have performed an annual risk assessment of the County focusing on key financial and business risks, controls, key performance indicators, and critical success factors as deemed appropriate by the Audit Committee and/or County Council.

(9 Del. C. 1953, § 1327; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

## § 1408. Access to records, property and employees; required contract provisions for access.

(a) All officers and employees of New Castle County, and all departments, offices, boards, activities, subcontractors, agencies, and instrumentalities thereof which are the subject of an audit by the County Auditor, shall furnish the County Auditor with unrestricted access to employees, information, and records (including automated data) within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts, and methods of business required by the Auditor to conduct an audit or otherwise perform the County Auditor's audit duties. In addition, the County Auditor shall be given complete access to all property, equipment, facilities, data, and documents within the custody or control of the person or entity subject to the audit. The County Auditor may photograph, photocopy, or otherwise record anything the County Auditor feels is necessary to accomplish the purposes of the audit. All contracts with outside contractors and subcontractors shall provide for access by the County Auditor to all financial and performance related records, property and equipment purchased in whole or part with County funds.

(b) If the County Auditor is at any time denied or restricted in the County Auditor's access to information described in subsection (a) of this section, the County Auditor may initiate a search to be made and exhibits to be taken from any book, paper, or record of or relating to any officer, employee, department, office, board, activity, subcontractor, agency, or instrumentality which is the subject of an audit by the County Auditor, except as otherwise provided by statute.

(c) The County Auditor shall not publicly disclose any information received during an audit that is considered confidential or proprietary in nature, or has been specifically identified as such by a federal, state, or local law or regulation. Information received by the County Auditor during an audit, to the extent it is not included or referenced in the report prepared by the County Auditor pursuant to § 1405 of this title, shall be exempt from public disclosure under the Freedom of Information Act (Chapter 100 of Title 29), unless such information was subject to public disclosure in its original form.

(d) For the purposes of this section only, "County Auditor" includes any Assistant County Auditor, employee of the County Auditor, or agent of the County Auditor who is undertaking an audit at the direction or under the authority of the County Auditor.

(9 Del. C. 1953, § 1328; 55 Del. Laws, c. 85, § 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

## § 1409. Annual external audit.

At the close of each fiscal year, the County Council, in accordance with County procurement laws and upon advice from the Audit Committee, shall cause a person or persons, certified by the laws of the State to practice accounting and not an employee of the County, to make a post-audit of the financial affairs of the offices, agencies, departments and boards of the County and of the procedures and practices of the County Auditor.

(9 Del. C. 1953, § 1329; 55 Del. Laws, c. 85, § 2; 71 Del. Laws, c. 401, § 59; 75 Del. Laws, c. 139, §§ 1, 2.)

## § 1410. Quality assurance reviews.

(a) The Audit Committee shall conduct quality assurance review of the activities and functions of the Office of the County Auditor. Such review shall take place every 3 years from the date of the last such quality assurance review.

(b) The Audit Committee shall utilize guidelines endorsed by the National Association of Local Government Auditors in conducting the quality assurance review. In addition to those guidelines, the Audit Committee shall determine whether the activities and functions of the Office of the County Auditor are undertaken in compliance with the most recent General Auditing Standards promulgated by the United States Accountability Office and shall examine functional standards employed by the Office, including:

(1) General standards such as staff qualifications, due professional care, and overall quality assurance;

(2) Fieldwork standards such as planning, supervision, and audit evidence; and

(3) Reporting standards such as report content, presentation, and timeliness.

(c) The Audit Committee shall complete its review within a time frame established by the County Council and shall prepare a report of its findings and recommendations no later than the end of the sixth month following the completion of the quality assurance review.

(d) A copy of the Audit Committee’s Quality Review Report shall be furnished to each member of County Council and to the County Executive and shall be made available to the public.

(e) The County Council shall reimburse the Committee for reasonable costs incurred in the conduct of the quality review and the preparation of the Quality Review Report.

(75 Del. Laws, c. 139, § 2.)

# Part II
# New Castle County
## Chapter 15
## Government of New Castle County
## Subchapter I
## General Provisions

### § 1501. Definitions.

As used in this part, unless the context requires a different meaning:

(1) "County" means New Castle County.

(2) The words "New Castle County government," or words of similar import, mean the government of New Castle County as established in Chapter 11 of this title.

(9 Del. C. 1953, § 1501; 55 Del. Laws, c. 85, § 7A.)

### § 1502. Transactions, activities and conduct forbidden to county officers or employees.

No county officer or employee shall furnish labor or material, either directly or indirectly, for the making, erection or repair of any bridge, road, causeway, public building or public work of any kind or description which is or may be within the care, custody or control of any county officer or employee, nor shall be or become, directly or indirectly, either the contractor or subcontractor for the performance of any public work, duty or service of any nature or kind within the control of any county officer or employee, nor shall have, exact, receive, accept or enjoy any rebate, profit, gift, emolument, rake-off or any pecuniary benefit whatsoever either directly or indirectly, from or on account of the making, erection or repair of any bridge, road, causeway, public building or public work of any kind or description which is or may be within the care, custody or control of any county officer or employee in his or her official capacity, or from or on account of any contract or subcontract for the performance of any public work, duty or service of any nature or kind within the control of any county officer or employee.

(22 Del. Laws, c. 273, § 1; Code 1915, § 1020; Code 1935, § 1156; 9 Del. C. 1953, § 1502; 55 Del. Laws, c. 85, § 7B.)

## Subchapter II
## Powers and Duties

### § 1521. Enumeration of certain specific powers.

(a) (1) In addition to the powers elsewhere conferred upon the New Castle County Council and without limiting their generality, the New Castle County Council shall have general jurisdiction over all matters pertaining to the County, its business, finances and general welfare, including the power to act upon all matters pertaining to sewers, sewerage disposal plants, trunk line sewers and sewerage systems generally, garbage, garbage disposal, removal and incineration of ashes, garbage, trash and rubbish, and the operation of plants therefor, drainage, engineering, construction of public buildings, fire protection, ambulance service, general supervision of county offices, public welfare institutions, fire companies and other matters of a public nature.

(2) The County Council in accordance with the provisions of § 1162 of this title shall establish and fix the salaries of all employees except the elected officeholders employed in the several county offices in New Castle County, and the chief deputy appointed by certain of the elected officeholders, provided:

a. All employees in the same classification shall be paid the same salary and

b. All Chief Deputies of elected or appointed officeholders shall be paid a salary of not less than $6,000 per annum and

c. All Assistant Chief Deputies of elected or appointed officeholders shall be paid a salary of not less than $5,500 per annum.

(b) In the performance of its duties, the New Castle County government may employ such assistants, enter into contracts and generally take such action as in its opinion it deems necessary and proper and for the best interests of the County.

(c) The New Castle County Council, in the general supervision of the county offices as enumerated in this section, shall have the power and authority to install, in such of the county offices as it shall consider necessary and desirable, modern and efficient business machines and machine record systems, to the end that all of the county offices shall be administered efficiently and economically. The New Castle County Council shall purchase or lease the necessary and appropriate business machine record systems and business machines to carry out the purposes of this section.

(d) The New Castle County Council may employ technical or professional advisors and consultants that it deems necessary or proper to advise it on the efficient and economical administration of the affairs of New Castle County. The technical and professional consultants and advisors so employed shall have full authority to examine and study the operation, management and administration of all county offices or departments that receive any appropriation for salaries or operational expenses from the New Castle County Council, and shall render to the New Castle County Council a written report of the findings and recommendations as result of such examination and study.

(e) County Council may determine that lands owned by New Castle County are surplus and no longer needed for County use and may authorize their disposal. The determination that lands are surplus shall be made after a public hearing not less than 30 days prior to the first published advertisement for bids or introduction of any ordinance or the execution of any contract for providing for the conveyance of such lands. Notice of the hearing shall be published in a newspaper of general circulation in New Castle County at least 10 days before the hearing.

(f) Notwithstanding any provision in this title, any real property acquired by New Castle County as the result of a Sheriff's Sale brought by the County to collect delinquent taxes, sewer service charges or other fees or charges due to the County shall be deemed surplus upon the execution by the Sheriff of a deed conveying the property to New Castle County. Lands acquired in this manner may be sold without further approval by County Council; provided that, prior to the completion of the sale, the conveyance of the property shall be approved by the County Executive of New Castle County in accordance with a written policy promulgated by the County Executive or Chief Administrative Officer.

(g) In addition to those powers enumerated in this section, New Castle County Council may by ordinance transfer lands held by the County, including but not limited to, surplus lands, to the State after written notification from the Governor or the Governor's designee that such lands are required by the State for public purposes.

(Code 1935, § 1153; 43 Del. Laws, c. 100, § 1; 48 Del. Laws, c. 316, § 1; 9 Del. C. 1953, § 1521; 49 Del. Laws, c. 55; 50 Del. Laws, c. 160, § 1; 53 Del. Laws, c. 52; 53 Del. Laws, c. 143; 55 Del. Laws, c. 85, §§ 7D-7F; 57 Del. Laws, c. 519, § 1; 64 Del. Laws, c. 229, § 1; 67 Del. Laws, c. 228, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 15, 60, 61, 62.)

## § 1522. Borrowing money.

(a) The County Council may, from time to time, authorize the borrowing of money upon the faith and credit of the County by issuing bonds, notes, certificates of indebtedness or any other evidence of debt, not to exceed the sum of $10,000,000 exclusive of indebtedness incurred for the purposes enumerated in subsection (d) of this section.

(b) The evidences of such indebtedness shall be in the form and manner prescribed by the Office of Finance but no such obligation shall bear interest at a greater rate than 5 percent. Such obligations shall not be issued or sold at less than their face value, and shall be issued in series and all such obligations issued at any time within the fiscal year shall constitute a series. No such obligation shall run for more than 20 years. At least 5 percent of the total outstanding obligations issued hereunder shall be retired by lot or paid, in each fiscal year. The obligations shall be signed by the County Executive either in original or by authorized mechanical signature and sealed with the seal of the Clerk of the County Council. The obligations may be issued for general County purposes and the full faith and credit of the County shall be deemed to be pledged for the payment of the principal and interest of such obligations. The obligations shall be made payable at a state or national bank designated by the County. The obligations shall be exempt from all state, county or municipal taxes.

(c) In case of the destruction by fire of any of the public buildings of the County, or of any emergency resulting in great loss to the County by destruction of property or threat thereof, the County Council, by a unanimous vote, may provide for such emergency by temporary loan or loans, anything herein contained to the contrary notwithstanding, until the next ensuing session of the General Assembly.

(d) The debt limit stated in subsection (a) of this section shall not be interpreted to include any bonds, notes or other evidence of indebtedness issued for the purpose of securing funds for use at the New Castle County Airport or; for using financing sanitary districts, the construction or acquisition of sewers or sewerage systems, suburban improvements, or County roads or bridges; or any bonds, notes or other evidence of indebtedness that do not pledge the full faith and credit of the County.

(17 Del. Laws, c. 16, §§ 3, 4; Code 1915, § 1035; Code 1935, § 1176; 42 Del. Laws, c. 101, § 1; 46 Del. Laws, c. 296, § 1; 48 Del. Laws, c. 332, § 1; 9 Del. C. 1953, § 1522; 49 Del. Laws, c. 430; 55 Del. Laws, c. 85, § 7G; 55 Del. Laws, c. 199; 63 Del. Laws, c. 142, § 15; 71 Del. Laws, c. 401, §§ 15, 63, 64, 65, 66.)

## § 1523. Sinking fund.

The Office of Finance may create a sinking fund for public buildings, public improvements, and public works generally, and for such purposes may open a special bank account in the name of the County and may deposit therein such sums at such times as the Office of Finance deems advisable. The money in such fund shall be paid out upon warrants as other county moneys are paid out according to law, at such times and in such amounts and for the above stated purposes or for any of such purposes, as the Office of Finance shall determine.

(41 Del. Laws, c. 110, § 1; 9 Del. C. 1953, § 1523; 55 Del. Laws, c. 85, § 7H; 71 Del. Laws, c. 401, § 63.)

## § 1524. Dumping of garbage, rubbish, ashes or other waste material; penalty for violation.

(a) The County Council may regulate or prohibit the dumping of rubbish, garbage, ashes or any other waste material in or upon land within the County outside of any incorporated municipality and, for that purpose, adopt and from time to time amend or rescind, suitable ordinances, rules or regulations; provided however, that this section shall not apply to the Appoquinimink Hundred and Blackbird Hundred of New Castle County.

(b) The County Council shall have power to license public garbage collectors who comply with and meet the requirements of the rules, regulations and ordinances adopted by the County Council. The County Council shall charge each public garbage collector $100 per year for said license.

(c) Whoever violates the regulations of the County Council established under this section shall be punished by a fine not exceeding $200, or imprisonment not exceeding 30 days, or both. In the case of continuing violations, each day of such violation shall constitute a separate offense.

(d) The County Council or any owner of real estate within New Castle County injured by a violation of any ordinance, rule or regulation adopted by the County Council pursuant to this section, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate or remove any violations against regulations adopted pursuant to this section.

(Code 1935, c. 43; 48 Del. Laws, c. 378, § 1; 9 Del. C. 1953, § 1525; 52 Del. Laws, c. 104; 55 Del. Laws, c. 85, §§ 7J-7L; 55 Del. Laws, c. 128; 71 Del. Laws, c. 401, § 15.)

## § 1525. Creeks or small runs; widening, straightening.

(a) In case the County Council, upon the advice of the Department of Public Works deems it advisable to widen, straighten or alter the course of any part of any small run or creek in the County, such as Chestnut Run or Little Mill Creek at Forest Park, in Christiana Hundred, the County Council and the Department of Public Works may enter upon any land for the purpose of surveying and locating the changes necessary to widen, straighten or alter the course of any part of such run or creek.

(b) Any person owning land which it will be necessary to procure for such purpose may dedicate the same for such purpose, and the County Council may enter into negotiations with the owner or owners for that purpose, and may secure the necessary conveyance or dedication of the land. The County Council may also purchase the land from the owner or owners thereof upon such terms as the County Council deems advisable. All conveyances and dedications shall be to this State, for the use of New Castle County, and all conveyances, dedications and other papers relating to the acquirement of such land for such purpose shall be and remain a part of the records of the office of the Department of Public Works.

(c) In case the County Council cannot agree with the owner or owners of such lands, the County Council may acquire the same by condemnation in accordance with Chapter 61 of Title 10.

(Code 1915, § 1523A; 37 Del. Laws, c. 113; Code 1935, § 1164; 9 Del. C. 1953, § 1526; 55 Del. Laws, c. 85, § 7M; 71 Del. Laws, c. 401, § 15.)

## Subchapter III

## Authorized Appropriations

## § 1561. New Castle County Workhouse [Repealed].

Repealed by 71 Del. Laws, c. 401, § 67, effective July 13, 1998.

## § 1562. New Castle County libraries; Wilmington Institute.

(a) The County Council of New Castle County may appropriate public moneys toward the maintenance and support of free public libraries for the use of the residents of New Castle County and for all purposes incident thereto.

(b) The Wilmington Institute, a corporation of the State, may administer a free library for the use of the residents of New Castle County outside of the City of Wilmington, and may perform all functions incident thereto, such functions to be in addition to those now devolving upon the Wilmington Institute under existing laws and to be paid for with other funds than those received from the City of Wilmington.

(c) The County Council of New Castle County and the Wilmington Institute may enter into continuous contracts, pursuant to resolutions of their respective bodies, with each other and with other persons or corporations, whether public or private, respecting payments of money to be made toward the maintenance and support of a free library for the use of the residents of New Castle County outside the City of Wilmington.

(d) The County Council of New Castle County may construct and equip free public libraries in New Castle County and for said purpose, may acquire land by purchase or gift and may enter into contracts for the construction and equipping of such public libraries in New Castle County outside of the City of Wilmington. The County Council may enter into contracts with the Wilmington Institute for the operation and maintenance and support of the said public library.

(e) For the purpose of providing funds for the acquisition of land and construction and equipping of the public library provided in subsection (d) of this section, the County Council of New Castle County may borrow money upon the faith and credit of New Castle County by issuing bonds notwithstanding any limitation prescribed by this chapter or any other law.

(1) The bonds shall bear interest at such rates, may be in 1 or more series, may bear such dates, may mature at such times not exceeding 20 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution or subsequent resolutions provide.

(2) The bonds shall be sold at public sale upon sealed proposals after at least 10 days notice published at least once in a newspaper published in the City of Wilmington. Any of the bonds may be sold at private sale to the United States of America or any agency, instrumentality or corporation thereof, at not less than par.

(3) Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the County Council determines may be issued to the purchasers of bonds sold pursuant to this subsection.

(4) The rate of interest may be determined in advance of sale, or the bonds may be offered for sale at a rate of interest to be fixed by the successful bidder for such bonds.

(5) Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon have ceased to be officers of the County.

(6) The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceeding relating to the matters authorized by subsection (d) of this section. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(7) The faith and credit of the County are pledged to the payment of any bonds issued by the County under this section. The County Council shall annually appropriate to the payment of such bonds and the interest thereon the amounts required to pay such bonds and interest as the same become due and payable. Notwithstanding the provisions of any other law the County Council may levy an ad valorem tax, with limitation as to rate or amount, upon all property taxable by the County to raise the moneys necessary to meet any such appropriation.

(36 Del. Laws, c. 112, §§ 1-3; Code 1935, § 1177; 41 Del. Laws, c. 109, § 1; 45 Del. Laws, c. 107, § 1; 47 Del. Laws, c. 79, § 1; 9 Del. C. 1953, § 1562; 49 Del. Laws, c. 95; 51 Del. Laws, c. 19; 52 Del. Laws, c. 250; 54 Del. Laws, c. 146; 54 Del. Laws, c. 210; 55 Del. Laws, c. 85, § 7N; 56 Del. Laws, c. 23; 71 Del. Laws, c. 401, §§ 15, 68.)

## § 1563. Private welfare agencies.

The County Council may make annual appropriations to the following charitable corporations of this State in aid of their respective objects: Children’s Home, Inc.; The Family Society; St. Michael’s School and Nursery; and The Prisoners Aid Society of Delaware.

(12 Del. Laws, c. 508, § 1; 17 Del. Laws, c. 579, § 4; 18 Del. Laws, c. 229, § 6; 20 Del. Laws, c. 80, § 3; Code 1915, §§ 1033, 2256, 2269; 37 Del. Laws, c. 186; Code 1935, §§ 1166, 2581, 2594; 9 Del. C. 1953, § 1563; 54 Del. Laws, c. 145, § 1; 55 Del. Laws, c. 85, § 7N; 71 Del. Laws, c. 401, § 15; 84 Del. Laws, c. 256, § 1.)

# Part II
# New Castle County

## Chapter 19
## Fire and Police Protection [Repealed].

### §§ 1901-1903. Fire prevention outside of incorporated towns; county police; powers and duties; mergers [Repealed].

Repealed by 71 Del. Laws, c. 401, § 69, effective July 13, 1998.

# Part II
# New Castle County
## Chapter 21
## Street and Highway Lighting

### § 2101. Lighting streets and highways in unincorporated communities and villages; petition.

(a) Upon the petition of a majority of the property owners of any unincorporated community or village in New Castle County, the County Council may enter into a contract with any electric, gas or other lighting companies to light and illuminate the streets or highways running through, bounding and within the community or village, with electric light, gas light, or other illuminant. The petition of the property owners shall set forth the boundary lines of the community to be lighted. Street lights shall be of such candle power, electric or its equivalent in other illuminating mediums, as shall be determined by the County Council. The County Council may enter into contracts for additional lights or may change the location of any lights theretofore located and may levy and collect additional tax for the payment of the same.

(b) For purposes of this chapter, the term "property owner" shall mean a person or entity who owns a fee simple interest in land situated in any unincorporated community or village in New Castle County entitling the owner to sign a petition filed pursuant to subsection (a) of this section and cast 1 vote in favor of or against illuminating streets or highways covered by such petition. In the event that a property is owned by more than 1 person or entity, either as joint tenants with right of survivorship, tenants in common or tenants by the entirety, each such party shall be entitled to cast a proportional vote equal to such party's proportional interest in and to the jointly-held property, as set forth in the deed of conveyance or other evidence of ownership. If the deed or other evidence of ownership does not set forth each owner's proportionate interest, each owner's interest shall be presumed to be equal for purposes hereof. It is the intent of this section that each property shall have no more than 1 vote, and each property owner shall have a vote equal to such property owner's proportional interest in such property.

(38 Del. Laws, c. 81, § 1; Code 1935, § 1180; 48 Del. Laws, c. 77, § 1; 9 Del. C. 1953, § 2101; 55 Del. Laws, c. 85, § 13A; 68 Del. Laws, c. 238, § 1; 68 Del. Laws, c. 435, § 1; 71 Del. Laws, c. 401, § 15.)

### § 2102. Levy and collection of light tax; penalty for late payment.

(a) The County Council, for the purpose of providing street and highway lighting pursuant to § 2101 of this title, shall levy for the installation and maintenance of such lights an annual tax based on the full annual cost of such lighting, plus up to but not exceeding 10% thereof to cover the actual direct and indirect costs of administration and billing. Such tax shall be levied against all properties within the boundary lines of the communities that have submitted petitions under § 2101 of this title. The County Council shall establish the method by which such tax shall be computed and shall adopt and levy annual light tax rates that will yield sufficient revenue to cover the full annual cost of all lighting services, plus up to but not exceeding 10% for the actual cost of administration and billing. No such taxes shall be levied against farm land.

(b) Such taxes shall be collected by the same collector, at the same time and in the same manner as other county taxes. If such taxes are not paid by the date set for the payment of other taxes, penalty shall accrue thereon in the manner and at the rate specified in § 8604(a) of this title.

(c) If the County Council receives a petition for street lighting from any community and the contract for such street lighting is entered after the commencement of the county's fiscal year, the Department of Finance may, at the same times established for supplemental assessments in § 8339 of this title, levy and bill a supplemental light tax to the property owners within such community, computed in the same manner as all other light tax bills, reduced at the rates specified in § 8340 of this title.

(d) All taxes levied under this chapter shall be considered real property taxes and, as provided in § 2901(a) of Title 25, shall constitute and remain a statutory lien on such property, together with any penalties that may accrue thereon, until such taxes and penalties are paid in full. Such lien shall enjoy the priority established for governmental liens by § 2901 of Title 25.

(38 Del. Laws, c. 81, § 2; Code 1935, § 1181; 48 Del. Laws, c. 77, § 2; 9 Del. C. 1953, § 2102; 55 Del. Laws, c. 85, § 13A; 68 Del. Laws, c. 435, §§ 2-6; 71 Del. Laws, c. 401, § 15.)

### § 2103. Light tax; administration of fund; surplus.

The Department of Finance of New Castle County shall receive all light taxes collected, shall keep them in a separate account, and shall pay them out only upon orders signed by the County Executive and approved by the Department. The Department shall receive or charge no compensation for the performance of any duty required of it or New Castle County under this chapter, beyond that expressly authorized by § 2102 of this title. If, after payment of all contracts entered into pursuant to this chapter, there remains a surplus in the light account, the surplus shall be applied to reduce the light tax rate for the succeeding taxable year.

(38 Del. Laws, c. 81, § 2; Code 1935, § 1181; 48 Del. Laws, c. 77, § 2; 9 Del. C. 1953, § 2103; 55 Del. Laws, c. 85, §§ 13A, 13B, 13C; 68 Del. Laws, c. 435, § 7.)

### § 2104. Removal of lights.

Lights installed under the provisions of this chapter shall be removed only by ordinance of County Council or upon its direction after receipt of a petition, signed by a majority of the property owners within the bounds of any lighted community or village, requesting such

removal. No such ordinance or petition shall be considered by County Council at any time within 3 years after the date of the first light tax billing issued after the installation of such lights. After the removal of such lights, no light tax shall be levied against properties within the bounds of the community or village identified in the ordinance or petition. In the event that such lights are removed, County Council shall not refund any light tax that has been levied for the fiscal year during which the lights are removed.

(38 Del. Laws, c. 81, § 4; Code 1935, § 1183; 55 Del. Laws, c. 85, § 13A; 68 Del. Laws, c. 435, § 8; 71 Del. Laws, c. 401, § 15.)

# Part II
# New Castle County

## Chapter 22
## Sewers

### Subchapter I
### General Provisions

### § 2201. Definitions.

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

(1) "County" means New Castle County.

(2) "Revenue bonds" means bonds to the payment of which all or any part of the revenues derived from the operation of any sewerage system are pledged in accordance with this chapter.

(3) "Service charges" means rents, rates, fees or other charges charged or collected under § 2209 of this title.

(4) "Sewerage system" means the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by the County for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes, garbage and storm water, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal systems, plants and works, connections, and outfalls, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, and appurtenances necessary or useful and convenient for such purposes.

(48 Del. Laws, c. 61, § 2; 9 Del. C. 1953, § 2201.)

### § 2202. Powers of County.

In addition to the other powers which it has, the County may, under this chapter:

(1) Plan, construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better or extend any sewerage system, and acquire by gift, purchase, or the exercise of the right of eminent domain, lands or rights in land in connection therewith;

(2) Operate and maintain any sewerage system and furnish the services and facilities rendered or afforded thereby;

(3) Enter into and perform contracts, whether long term or short term, with any industrial establishment for the provision and operation by the County of the sewerage system to abate or reduce the pollution of waters caused by discharges of industrial wastes by such industrial establishment and the payment periodically by the industrial establishment to the County of amounts at least sufficient, in the judgment of the County Council, to compensate the County for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining, the sewerage system or part thereof serving such industrial establishment;

(4) Issue its bonds to finance, either in whole or in part, the cost of the planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage system;

(5) Pledge to the punctual payment of the bonds and the interest thereon an amount of the revenues derived from the operation of such sewerage system (including the revenues of the existing facilities, if any, comprising a sewerage system which is being improved, bettered, or extended, and the revenues to be derived from any improvements, betterments, extensions thereafter constructed or acquired), or of any part of any such sewerage system, sufficient to pay, on either equal or priority basis, the bonds and interest as the same become due and create and maintain reasonable reserves therefor, which amount may consist of all or any part or portion of such revenues;

(6) Accept from any authorized agency of the State or the federal government, or from persons, firms, or corporations, grants or contributions for the planning, construction, acquisition, lease, reconstruction, improvement, betterment or extension of any sewerage system and enter into agreements with such agency respecting such loans and grants; and

(7) Enter into a contract or contracts with any city or town situated within the County providing for the disposal of sewage collected by any sewerage system either for a specified or an unlimited time and for the charge to be made for such service by any such city or town.

(48 Del. Laws, c. 61, § 3; 9 Del. C. 1953, § 2202; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

### § 2203. Sewerage system within city or town.

No sewerage system, or any part thereof, shall be constructed or maintained within the boundaries of any city or town situated in the County without the consent of such city or town. The consent shall be given only by an ordinance adopted by the council or other governing body of the city or town in question.

(48 Del. Laws, c. 61, § 4; 9 Del. C. 1953, § 2203.)

## § 2204. Bonds; authorization, amount, terms, sale and interest rate.

(a) The planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage system may be authorized under this chapter and bonds may be authorized to be issued under this chapter to provide funds for such purposes by ordinance of the County Council.

(b) The County Council, in determining the cost of acquiring or constructing any sewerage system, may include all costs and estimated costs of the issuance of the bonds, all planning, engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this chapter.

(c) The bonds shall bear interest at such rates, may be in 1 or more series, may bear such dates, may mature at such times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the ordinance or subsequent ordinances provide. Debt incurred by the County Council pursuant to this chapter may be represented by uncertificated obligations of the County Council which may be authorized in accordance with the same procedures applicable to bonds which are permitted to be issued under this chapter, and the County Council may determine all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(d) The bonds shall be sold at public sale upon sealed proposals after at least 10 days' notice published at least once in a newspaper published in the City of Wilmington at such price and upon such terms, conditions and regulations as the County Council may prescribe; provided, that the County Council may authorize the County Executive to sell such bonds at public or private sale upon such terms, conditions and regulations as it may prescribe.

(e) Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the County Council determines may be issued to the purchasers of bonds sold pursuant to this chapter.

(f) The rate of interest may be determined in advance of sale, or the bonds may be offered for sale at a rate of interest to be fixed by the successful bidder for such bonds.

(48 Del. Laws, c. 61, § 5; 9 Del. C. 1953, § 2204; 55 Del. Laws, c. 85, § 14; 64 Del. Laws, c. 318, §§ 7, 8; 71 Del. Laws, c. 401, §§ 15, 70.)

## § 2205. Authorized signatures on bonds; validity of issuance.

(a) Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon have ceased to be officers of the County.

(b) The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the planning, acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the sewerage system for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which shall be conclusive evidence of their validity and of the regularity of their issuance.

(48 Del. Laws, c. 61, § 6; 9 Del. C. 1953, § 2205; 71 Del. Laws, c. 401, §§ 70, 71.)

## § 2206. Payment of bonds; faith and credit of County; tax levy.

The faith and credit of the County are pledged to the payment of any bonds issued by the County under this chapter. The County Council shall annually appropriate to the payment of such bonds and the interest thereon the amounts required to pay such bonds and interest as the same become due and payable. Notwithstanding the provisions of any other law the County Council may levy an ad valorem tax, without limitation as to rate or amount, upon all property taxable by the County to raise the moneys necessary to meet any such appropriation.

(48 Del. Laws, c. 61, § 7; 9 Del. C. 1953, § 2206; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2207. Authorization of covenants in revenue bonds.

(a) In the event that the County issues revenue bonds, the resolutions authorizing the issuance of such bonds may contain covenants as to:

(1) The purpose to which the proceeds of sale of the bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the revenue of the sewerage systems, the revenues of which are pledged to the payment of such bonds, including the creation and maintenance of reserves;

(3) The issuance of other or additional bonds payable from the revenues of such sewerage systems;

(4) The operation and maintenance of such sewerage systems;

(5) The insurance to be carried thereon and the use and disposition of insurance moneys;

(6) Books of account and the inspection and audit thereof; and

(7) The terms and conditions upon which the holders of the bonds or any proportion of them or any trustee therefor shall be entitled to the appointment of a receiver by the appropriate court, which court shall have jurisdiction in such proceedings, and which receiver

may enter and take possession of the sewerage systems, operate and maintain them, prescribe service charges therefor, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the County itself might do.

(b) This chapter and any such ordinance or resolutions shall be a contract with the holders of the bonds, and the duties of the County and of the County Council and officers under this chapter and any such resolutions shall be enforceable by any bondholder, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

(48 Del. Laws, c. 61, § 8; 9 Del. C. 1953, § 2207; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, §§ 15, 70.)

## § 2208. Service charges; amount and application.

(a) If the County issues revenue bonds under this chapter, the County Council shall prescribe and collect reasonable service charges for the services and facilities rendered or afforded by the sewerage systems, the revenues of which are pledged to the payment of such bonds, and shall revise such service charges from time to time whenever necessary.

(b) The service charges prescribed shall be such as will procure revenue at least sufficient:

(1) To pay when due all revenue bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; and

(2) To provide for all expenses of operation and maintenance of such sewerage systems, including reserves therefor.

(c) The service charges when collected shall be applied to the payment of the revenue bonds and interest and to the expenses of such operation and maintenance in accordance with the resolutions authorizing the revenue bonds.

(48 Del. Laws, c. 61, § 9; 9 Del. C. 1953, § 2208; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2209. Power to make charges; liability of users; computation of rates.

(a) The County Council may charge and collect rents, rates, fees or other charges (in this chapter sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, any sewerage system. Such service charges may be charged to and collected from any person contracting for such connection or use or service or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with a sewerage system, or from or on which originates or has originated sewage which directly or indirectly has entered or may enter into a sewerage system, and the owner or occupant, or both of them, of any such real property shall be liable for and shall pay such service charges to the County at the time when and place where the County Council, by ordinance, rule or regulation, determines that such charges are due and payable.

(b) Such service charges shall, as near as the County Council deems practicable and equitable, be uniform throughout the area served by the sewerage system, and may be based or computed either on the consumption of water on or in connection with the real property, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on other factors determining the type, class and amount of use or service of the sewerage system, or on any combination of any such factors.

(48 Del. Laws, c. 61, § 10; 9 Del. C. 1953, § 2209; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2210. Penalties for failure to pay charges.

(a) In the event that a service charge with regard to any parcel of real property is not paid as and when due, a penalty shall accrue and be due to the County on the unpaid balance at a rate and in a manner to be set by ordinance of County Council.

(b) In the event that any service charge with respect to any parcel of real property is not paid as and when due, the Chief Financial Officer of the County may, at his or her discretion, enter upon such parcel and cause the connection thereof leading directly or indirectly to the sewerage system to be cut and shut off until the service charges and any subsequent charges with regard to such parcel and all penalties thereon are fully paid.

(c) The Office of Finance of New Castle County may at any time notify in writing the person or corporation employing any person responsible for the payment of delinquent service charges hereunder that the charges are due, delinquent and unpaid and thereupon the employer shall deduct from the wages, or from any sum due such employee, the amount of the charges due from such employee, and charge the same against the employee. If such employer refuses or neglects to comply with this section within 3 months from the time of receiving such notice, the employer shall be personally liable for the charges of such person as to whom notice has been given. The Office of Finance may recover the amount of the charges from such employer in an action of debt before any Justice of the Peace. When the amount of such charges is held by any employer under this section, the employer shall pay the same to the Office of Finance within 30 days thereafter. A copy of this section shall accompany all written notices to employers.

(48 Del. Laws, c. 61, § 10; 9 Del. C. 1953, § 2210; 55 Del. Laws, c. 85, § 14; 63 Del. Laws, c. 169, § 2; 65 Del. Laws, c. 435, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 15, 72.)

## § 2211. Lien of service charges on real estate.

(a) In the event that any service charge is not paid as and when due, the unpaid balance thereof and any penalties accrued thereon shall be a lien on the parcel of real property with regard to which the service charge was made. The lien shall be superior and paramount to the penalties in such parcel of any owner, lessee, tenant, mortgagee or other person, except the lien of taxes.

(b) If any service charges remain unpaid after the due date, the chief financial officer, in chief financial officer's discretion, may institute a proceeding for the enforcement of the lien with penalties thereon accrued, and all costs thereon, under the method for collecting delinquent taxes established under Chapter 87 of this title. Such grounds and buildings, or any part thereof, may be sold by the Sheriff of the county as is provided by law.

(c) The Sheriff shall, out of the purchase money of the premises so sold, pay all costs arising from the process and sale to the parties entitled thereto respectively, and shall pay the amount of the service charge with accrued penalties thereon to the Office of Finance. Any residue of purchase money shall be deposited by the Sheriff in accordance with applicable rules and procedures of the Superior Court.

(35 Del. Laws, c. 69, § 3; 38 Del. Laws, c. 69; Code 1935, § 1172; 46 Del. Laws, c. 294, § 2; 48 Del. Laws, c. 61, § 12; 9 Del. C. 1953, § 2211; 55 Del. Laws, c. 85, § 14; 63 Del. Laws, c. 142, § 16; 63 Del. Laws, c. 169, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 15, 73, 74, 75; 82 Del. Laws, c. 151, § 1; 84 Del. Laws, c. 42, § 1.)

## § 2212. Sewer lien docket.

(a) (1) The County Council of New Castle County shall establish regulations and fees for the issuance of sewer permits required in § 2216 of this title. Upon issuance of the sewer permit, the fees for such permits shall become liens against the property for which the permit is issued. The lien for sewer permits and the lien for sewer service shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee, or other person, except to the lien of taxes.

(2) The Department of Public Works shall issue the permits and collect the fees arising therefrom for the use of the County Council. The Department of Public Works shall, under supervision and direction of the County Council, prepare a docket to be known as the "New Castle County Sewer Lien Docket" in which shall be recorded the liens for sewer permits. The form of the Docket shall be established by the County Council. No sewer permit lien shall be valid unless duly recorded in the said Docket. All sewer permit liens duly recorded in the Docket shall continue in full force and effect until the liens have been satisfied by payment, and when such liens are satisfied by payment the Department of Public Works, acting under the supervision and direction of the County Council, shall satisfy of record the liens, entering thereon the date of final payment, and signing the Docket. The Department of Public Works, for the use of the County Council, shall receive a fee of $0.50 for each satisfaction so recorded.

(3) The County Council shall also establish the form in which the record of the sewer service liens shall be kept. Such records shall be in the custody of the Department of Public Works.

(b) All proceedings taken and all acts done prior to April 10, 1957, purporting to establish liens for sewer service and for front foot fees are legalized, validated and confirmed, notwithstanding any errors, omissions or irregularities in the act or the establishment of a sewer lien docket or other records relating thereto.

(35 Del. Laws, c. 69, § 3; 38 Del. Laws, c. 69; Code 1935, § 1172; 46 Del. Laws, c. 294, § 2; 9 Del. C. 1953, § 2212; 51 Del. Laws, c. 33; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2213. Water consumption statement and other information for Department.

(a) Each municipality or public corporation, or other person, owning or operating any system of water distribution serving 3 or more parcels of real property in the County shall, from time to time after request therefor by the Department of Public Works, deliver to the Department of Public Works a statement showing the amount of water supplied to every such parcel of real property as shown by the records of the municipality or public corporation, or other person. The statements shall be delivered to the Department of Public Works within 10 days after request is made for them, and the Department of Public Works shall pay the reasonable cost of preparation and delivery of such statements.

(b) The occupant of every parcel of property the sewage from which is disposed of or treated by any sewerage system of the County shall, upon request therefor by the Department of Public Works, furnish to the Department of Public Works information as to the amount of water consumed by such occupant or in connection with such parcel and the number and kind of water outlets, and plumbing or sewerage fixtures or facilities on or in connection with such parcel and the number of persons working or residing therein.

(48 Del. Laws, c. 61, § 11; 9 Del. C. 1953, § 2213; 55 Del. Laws, c. 85, § 14.)

## § 2214. Discontinuance of water supply for failure to pay service charge.

Each city or town or other public corporation owning or operating any water distribution system serving 3 or more parcels of real property in the County, and every other person owning or operating any such system may enter into and perform a contract with the County that it will, upon request by the County Council specifying a parcel of real property in the County charged with any unpaid service charge under § 2209 of this title, cause the supply of water from its system to such parcel of real property to be stopped or restricted, as the County Council may request, until the service charge and any subsequent service charge charged to such parcel and the interest accrued thereon is fully paid or until the County Council directs otherwise. No such city or town or other public corporation or other person shall be liable for any loss, damage or other claim based on or arising out of the stopping or restricting of such supply, and the County Council shall pay the reasonable cost of so stopping or restricting such supply and of restoring the same and may agree to indemnify such city or town or other public corporation or other person from loss or damage by reason of such stopping or restriction, including loss of profits.

(48 Del. Laws, c. 61, § 13; 9 Del. C. 1953, § 2214; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2215. Contract with city or town for disposal or treatment of sewage.

The County Council may make a contract with any city or town within the territorial limits of the County to dispose of or treat by means of any sewerage system of the County the sewage originating in such city or town. Any such contract may be authorized by resolution duly adopted by the County Council and may be made with or without consideration and may contain provisions obligating the County to dispose of and treat all or any part of the sewage originating in such city or town and obligating such city or town to permit the County to dispose of or treat such sewage, either for a specific period of time or for an unlimited time. Any such contract may contain other and different provisions relative to the kind and character of sewage to be disposed of and treated and the compensation, if any, to be paid for such services.

(48 Del. Laws, c. 61, § 14; 9 Del. C. 1953, § 2215; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2216. Connection of property with sewers.

Permits for connecting any property by a drain with any county sewer shall be obtained from the County Council and shall be issued only to plumbers licensed to do business in the State. No permit will be granted for connecting any property by a drain with any sewer unless application is made therefor to the County Council in writing upon blanks furnished by the County Council. The application shall state the full name of the owner, the size and kind of drain pipe to be used and a full description of the premises, its location, the number and size of each building located thereon to be drained, the area of each floor thereof, including the floor of the cellar or basement, all of the purposes for which the drain is to be used, the time when the connection is to be made and other particulars for a full understanding of the subject and that the owner will be subject to all the rules and regulations prescribed by the County Council. The application shall be signed by the owner of the property to be drained and by a plumber licensed to do business in the State. The owner shall also execute a release to the County Council releasing the County Council, its officers and agents and the County from all liability or damage which may in any manner result to the premises by reason of such connection. No permit shall be deemed to authorize anything not therein specifically stated.

(35 Del. Laws, c. 69, § 2; Code 1935, § 1171; 9 Del. C. 1953, § 2216; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2217. Licensed plumber to connect property with sewers.

All necessary plumbing work to be done in connecting any property with a county sewer shall be done by a plumber licensed to do business in this State in a good and workmanlike manner and with good and proper materials, and shall be subject to the approval of the Department of Public Works.

(35 Del. Laws, c. 69, § 4; Code 1935, § 1173; 9 Del. C. 1953, § 2217; 55 Del. Laws, c. 85, § 14; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 404, §§ 1, 3.)

## § 2218. Misrepresentations in application and unauthorized connections with sewer; penalty.

Whoever wilfully makes any misrepresentation in any application or makes or maintains any connection with any sewer contrary to the authority granted by permits issued therefor by the County Council, or without a permit therefor in accordance with this chapter, shall be fined not less than $5.00 nor more than $500.

(35 Del. Laws, c. 69, § 5; Code 1935, § 1174; 9 Del. C. 1953, § 2218; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2219. Surveys and inspections by Department; penalty for refusal to permit.

(a) The Department of Public Works or its representatives may go upon any land for the purpose of making surveys for sewers, sewer systems, sewage disposal plants or pumping plants or for rights-of-way or other property rights required for the sewers, sewerage systems, sewage disposal plants and pumping plants.

(b) The Department of Public Works or its representatives may inspect, at reasonable hours, any premises, dwellings or other buildings in the vicinity of a county sewer to determine if it is connected to the county sewer, or to determine if the sewer connection has been made or is being maintained in accordance with the regulations of the County Council.

(c) Whoever refuses to permit inspections and surveys at reasonable hours shall be fined not less than $10 for every such refusal.

(35 Del. Laws, c. 69, § 6; Code 1935, § 1175; 46 Del. Laws, c. 294, § 3; 9 Del. C. 1953, § 2219; 55 Del. Laws, c. 85, § 14; 71 Del. Laws, c. 401, § 15.)

## § 2220. Construction of chapter with other laws.

The powers conferred by this chapter shall be in addition to and not in substitution for the powers conferred by any other general, special or local law. The powers conferred by this chapter may be exercised notwithstanding that any other general, special or local law may confer such powers, and without regard to the requirements, restrictions, limitations or other provisions contained in such other general, special or local law.

(48 Del. Laws, c. 61, § 15; 9 Del. C. 1953, § 2220.)

## § 2221. Sewage pumps—Maintenance thereof.

(a) Notwithstanding any language to the contrary, for any residence that the government of New Castle County or any agent or representative thereof in any capacity or form (County) deems that installation of a grinder pump or any other sewage pump or waste

management device shall be necessary in conjunction with or in relation to the New Castle County Sewer Rehabilitation Project, the County shall pay any and all expenses, costs, and fees of any form or manner related to maintenance and/or operation of such pump or device and any replacement thereof in perpetuity.

(b) Notwithstanding subsection (a) of this section above, the County shall incur no obligation nor incur any liability where a grinder pump or any other sewage pump or waste management device was installed on or in a residence by the owner or a representative thereof prior to commencement of or subsequent to completion of the New Castle County Sewer Rehabilitation Project.

(78 Del. Laws, c. 190, § 1.)

## Subchapter II

## Monition Method of Sale in New Castle County

### § 2222. Established [Repealed].

(63 Del. Laws, c. 169, § 1; 71 Del. Laws, c. 401, § 76; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2223. Affidavit; judgment; praecipe; issuance [Repealed].

(63 Del. Laws, c. 169, § 1; 71 Del. Laws, c. 401, §§ 76, 77, 78; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2224. Form [Repealed].

(63 Del. Laws, c. 169, § 1; 71 Del. Laws, c. 401, §§ 76, 79; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2225. Service; written notice; posting; return; alias or pluries monition [Repealed].

(63 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 76, 80; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2226. Affidavit of defense [Repealed].

(63 Del. Laws, c. 169, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2227. Jury trial [Repealed].

(63 Del. Laws, c. 169, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2228. Discharge of property from lien [Repealed].

(63 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 76, 81; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2229. Writ of venditioni exponas [Repealed].

(63 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 76, 82; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2230. Effect of sale of real estate or interest therein [Repealed].

(63 Del. Laws, c. 169, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2231. Petition for deed of conveyance [Repealed].

(63 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 186, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2232. Redemption by owner [Repealed].

(63 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 186, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2233. Petition by owner after redemption; effect of redemption [Repealed].

(63 Del. Laws, c. 169, § 1; 70 Del. Laws, c. 186, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2234. Approval of sale [Repealed].

(63 Del. Laws, c. 169, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2235. Service charge to be lien upon property; construction of “Superior Court” [Repealed].

(63 Del. Laws, c. 169, § 1; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

### § 2236. Fees and costs [Repealed].

(63 Del. Laws, c. 169, § 1; 71 Del. Laws, c. 401, §§ 76, 83; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

## § 2237. Purchase at Sheriff’s Sale by agent of County [Repealed].

(71 Del. Laws, c. 401, § 84; repealed by 82 Del. Laws, c. 151, § 2, effective July 23, 2019.)

# Part II
# New Castle County
## Chapter 23
## Sanitary Sewer Districts

### § 2301. Conditions for establishment of sanitary sewer district.

Whenever contiguous territory containing 1 or more centers of population, whether incorporated or not, shall be so situated that the construction of interceptor sewers, outfall sewers and sewage treatment plants will be conducive to the preservation of the public health, the territory shall be established by the County Council as a sanitary sewer district.

(Code 1935, § 1170A; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2301; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

### § 2302. Establishment or revision of sanitary sewer districts without election; consolidation of districts.

(a) Where the County Council has already constructed sewers to which 50 or more houses have been connected, the County Council may establish, upon request of the Department of Public Works, a new district or revise the boundaries of an established district without further petitions or hearings by posting at 4 public places in the district notices describing the new or revised boundaries, and, in the case of the establishment of a new district, the same cost and assessment data required for districts established by vote of electors.

(b) Within 30 days after the posting of the notices of the establishment of the district in accordance with the provisions of subsection (a) of this section, the County Council shall pass a formal resolution establishing the district, which shall:

(1) Contain a description of the boundaries of the district;

(2) Direct the Department of Public Works and the attorney of the County Council to procure the necessary land and rights-of-way by purchase, agreement, or condemnation in accordance with existing statutes; and

(3) Authorize the Department of Public Works to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any or all structures required to provide for the safe disposal of the sewage in the sanitary district.

(c) The County Council may consolidate any existing sanitary sewer districts or establish a countywide district following a public hearing. The hearing shall be at such time as may be fixed by the County Council and advertised at least 2 weeks in advance by publishing a notice in a newspaper within the county having a general circulation, once in each of the 2 weeks immediately preceding the week in which the hearing is to be held. All interested persons in any way affected by the proposed consolidation shall be heard. After the public hearing is closed, the County Council shall, by ordinance, determine whether or not it is in the public interest to establish the consolidated district. The ordinance shall specify the boundaries of the consolidated district. The County Council may change or amend the rate of levy as it deems necessary and just.

(Code 1935, § 1170B; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2302; 55 Del. Laws, c. 85, § 15; 61 Del. Laws, c. 331, §§ 1, 2; 71 Del. Laws, c. 401, § 15.)

### § 2303. Establishment of sanitary sewer district upon petition of voters.

Fifty or more legal voters who are residents of a proposed sanitary sewer district, may petition the County Council to submit the question of organizing a sanitary sewer district to a vote of electors residing in that district. The petition shall contain a description of the proposed district and shall be accompanied by a map drawn to scale showing the boundaries of the proposed district together with the limits of any incorporated areas which may be included in the district. The execution of the petition by an elector shall be acknowledged by the elector or it may be proved by the oath of a witness who shall swear that the witness knows the elector and that the petition was signed by the elector in the presence of the witness.

(Code 1935, § 1170C; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2303; 55 Del. Laws, c. 85, § 15; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

### § 2304. Public hearing; notice.

The County Council, upon receipt of a petition submitted as provided in § 2303 of this title, shall, and the County Council may, upon its own motion and without having received such a petition, set a date for a public hearing on the question of organizing a sanitary sewer district. The hearing shall be held at such time as may be fixed by the County Council and shall be previously advertised by posting a notice, in 4 of the most public places within the proposed district, at least 10 days prior thereto and by publishing a notice in a newspaper published within the County and having a general circulation therein, once in each of 2 weeks immediately preceding the week in which the hearing is to be held. All interested persons, officials, residents, voters, taxpayers, property owners or other persons or corporations in any way affected by the granting of the petition shall be heard on any question dealing with the location of the boundaries of the district. Such notice shall contain a description of the boundaries of the proposed sanitary district and if the public hearing is ordered as a result of the filing of a petition such boundaries shall be those described in the petition.

(Code 1935, § 1170C; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2304; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2305. Action of County Council following hearing.

(a) After the public hearing referred to in § 2304 of this title shall have been closed, the County Council shall, by resolution, determine whether or not it is in the public interest to establish the district and, if it deems it to be in the public interest to establish the district, the County Council shall, by such resolution, determine what shall be the boundaries of the district. Such boundaries may be those set forth in the petition or may be boundaries which will include in the district the property and property owners, and only the property and property owners, that will be benefited by the establishment of the district and the construction of sewage disposal facilities therein.

(b) After establishing the boundaries of the district, the County Council shall also cause to be prepared by the Department of Public Works or consulting engineers, an estimate of the cost of proposed immediate construction and also an approximate estimate of the assessment per front foot and the amount to be included in the assessment necessary to take care of interest, amortization and maintenance costs. The construction cost estimates and assessment estimates shall be advertised in the same manner as provided in § 2304 of this title for advertising the public hearing.

(Code 1935, § 1170D; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2305; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2306. Election on question of establishment of district.

(a) Whenever the determination on the question of establishing the district, as required by § 2305 of this title, is in the affirmative, and after the other requirements of that section have been complied with, the County Council then shall cause an election to be held within 6 months following the date of the hearing, at which the question shall be submitted to the voters residing within the boundaries of the sanitary sewer district as fixed by the County Council as to whether the district shall be established or not. Notice of the election shall be advertised in the same manner as provided in § 2304 of this title for advertising the public hearing. The cost of the election shall be borne by the County Council, which shall be reimbursed for such cost by the district, if established by the election.

(b) The proposition shall be submitted to the voters substantially in the following form:

FOR THE SANITARY SEWER DISTRICT

AGAINST THE SANITARY SEWER DISTRICT

(c) The majority of votes cast shall decide the matter.

(d) The election shall be managed and the votes canvassed in such manner as may be prescribed by the County Council. Every citizen who resides in the proposed sanitary sewer district in which the election is being held and who would be entitled at the time of the holding of such election to register and vote in any election district in which the proposed sanitary sewer district is a part, at a general election, if such general election were held on the day of such election in the proposed sanitary sewer district, may vote at such election whether or not the citizen is at the time a registered voter.

(Code 1935, § 1170E; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2306; 50 Del. Laws, c. 164, § 1; 55 Del. Laws, c. 85, § 15; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

## § 2307. Action of County Council following election favoring establishment of district.

(a) If the majority of the voters are in favor of establishing the sanitary sewer district, the County Council shall within 30 days following the election, issue a determination to that effect which shall contain a description of the district. The County Council shall file a certified copy of the determination with the clerk of the peace.

(b) Within 30 days after the election, the County Council shall authorize the Department of Public Works and the County Attorney to procure the necessary land and rights-of-way by purchase, agreement, or by condemnation in accordance with existing laws, and shall authorize the Department of Public Works to prepare maps, plans, specifications and estimates for any or all structures required to provide for the installation of sewers, structures incidental thereto and the safe disposal of the sewage in the district and to let contracts for, supervise the construction and maintenance of, or the enlarging or remodeling of such structures, and to carry on such other activities as may be required by this chapter or considered necessary to perform the duties prescribed in this chapter.

(Code 1935, § 1170E; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2307; 55 Del. Laws, c. 85, §§ 15, 15C; 71 Del. Laws, c. 401, § 15.)

## § 2308. Construction of system adequate for future connections.

The County Council may construct and maintain main sewers and sewage treatment works in order to provide a satisfactory outlet for any subdivision which may at any future time connect submain or lateral sewers to it.

(Code 1935, § 1170F; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2308; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2309. Construction or maintenance of sewers for cities or towns.

The County Council may construct or maintain submains or laterals as agents for cities or towns when officially requested so to act and when the cost of such work is to be borne by local assessments against the property benefited or by assessment by the County Council in the same manner as for unincorporated areas.

(Code 1935, § 1170F; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2309; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2310. Adjustment of assessment for cost of existing sewers included in a district.

In the case where a sanitary sewer district shall include areas wherein sanitary sewers have been constructed under the authority of the County Council, or by incorporated towns, corporations or individuals, the necessary adjustments shall be made with each property owner for those costs already incurred by the property owner when those sewers were constructed. Such excess costs shall be credited to future assessments levied by the district.

(Code 1935, § 1170F; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2310; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2311. Bonds; power to issue; terms; authority of County Executive.

(a) The County Council may issue bonds of New Castle County to finance the cost of constructing sewage disposal facilities in any sanitary sewer district. The moneys raised by the issuance of such bonds shall be held in a separate account and shall be expended only for the construction of sewage disposal facilities in the sanitary sewer district for which the bonds are issued.

(b) The bonds shall bear interest at the most advantageous rate attainable by the County Council and the income therefrom shall not be subject to state taxation. Each issue of such bonds shall be payable within 40 years after the date of the bonds of such issue. The interest coupons and face amount of the bonds shall be payable at such place or places as the County Council may prescribe. The reasonable expenses of issuing such bonds shall be deemed a part of the cost of constructing the sewer facilities. The full faith and credit of New Castle County shall be pledged to the payment of such bonds and the interest thereon. Debt incurred by the County Council pursuant to this chapter may be represented by uncertificated obligations of the County Council which may be authorized in accordance with the same procedures applicable to bonds which are permitted to be issued under this chapter, and the County Council by resolution may determine, or it may delegate authority to the County Executive to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(c) The County Council may authorize the County Executive to sell such bonds at public or private sale upon such terms, conditions and regulations as it may prescribe.

(Code 1935, § 1170G; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2311; 49 Del. Laws, c. 323; 55 Del. Laws, c. 85, § 15; 63 Del. Laws, c. 142, § 17; 64 Del. Laws, c. 318, § 9; 71 Del. Laws, c. 401, § 15; 83 Del. Laws, c. 344, § 2.)

## § 2312. Notice of sale of bonds.

The County Council shall provide notice of its intent to sell bonds in at least 2 issues in 1 newspaper of general circulation published in New Castle County at least 10 days prior to the sale of the bonds. The notice shall state the total amount of the proposed issue, the interest rate, the purpose of the bonds and provide a county website where more information can be found.

(Code 1935, § 1170G; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2312; 55 Del. Laws, c. 85, § 15; 64 Del. Laws, c. 318, § 10; 71 Del. Laws, c. 401, § 15; 83 Del. Laws, c. 344, § 2.)

## § 2313. Deposit accompanying bids.

The County Council may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the County Council shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(Code 1935, § 1170G; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2313; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2314. Sale of bonds; opinion of County Attorney.

(a) The County Council may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the person, persons, firm or corporation which, in the judgment of the County Council, offers the most advantageous terms.

(b) The bonds shall not be offered for sale until the County Attorney has submitted the County Attorney's opinion in writing that the bonds will, when duly sold, executed, delivered and paid for, be validly issued in accordance with the provisions of this chapter.

(Code 1935, § 1170G; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2314; 55 Del. Laws, c. 85, §§ 15, 15D; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

## § 2315. Preparation, form and execution of bonds.

The County Council shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the County Council. The bonds shall be signed as prescribed by the County Council.

(Code 1935, § 1170G; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2315; 55 Del. Laws, c. 85, § 15; 64 Del. Laws, c. 318, § 11; 71 Del. Laws, c. 401, § 15.)

## § 2316. Annual assessment; procedure for fixing amount.

(a) The County Council each year, at a time to be fixed by it, shall, after a public hearing, establish an annual assessment roll for the sanitary sewer district which shall be known as the "Sanitary Sewer District Assessment."

(b) The total amount assessed for each year shall be sufficient to provide funds required to reimburse the County for sums to be expended for retiring the bonds which have been issued and for the payment of the interest due on the same and for maintaining or improving the sewerage system and paying the necessary general expenses of the sanitary sewer district.

(c) Notice of the public hearing shall state that the assessment roll has been completed and filed and that at the time and place fixed for the public hearing the County Council will meet and hear and consider any objections which may be made to the assessment roll. Notice of the public hearing shall be published in a newspaper published within New Castle County, and having a general circulation therein, once in each of the 2 weeks immediately preceding the week in which the public hearing is to be held.

(d) After holding the public hearing, the County Council may change or amend the assessment roll as it deems necessary or just, and may confirm and adopt the assessment roll as originally proposed or as amended or changed.

(Code 1935, § 1170H; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2316; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2317. Collection of assessments.

The annual assessments shall be collected by the County Council as are other county taxes. The properties against which such assessments are levied shall be liable for the payment of the assessments in the same manner as they are liable for other county taxes. No assessment shall be made against any property which is not subject to taxation and assessment for county and municipal purposes.

(Code 1935, § 1170H; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2317; 51 Del. Laws, c. 130; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2318. Rules and regulations governing use of sewage disposal facilities.

The County Council may promulgate from time to time and enforce such rules and regulations, as may be necessary, governing the use of the whole or any parts of such sewerage systems or sewage treatment plants constructed under their control either within or without the district.

(Code 1935, § 1170-I; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2318; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2319. Grants or loans from federal, state or interstate agencies.

The County Council may accept grants or loans of money, labor, materials, equipment or technical assistance from agencies of the federal or state government or from interstate agencies established by law, to accomplish the purposes of this chapter and may pay the interest and amortization on such loans in the same manner as is authorized in this chapter for bonds.

(Code 1935, § 1170J; 45 Del. Laws, c. 113, § 1; 47 Del. Laws, c. 178, § 1; 9 Del. C. 1953, § 2319; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2320. Validation of prior acts and proceedings.

All proceedings taken and all acts done prior to June 2, 1949, purporting to establish any sanitary district for the purposes set forth in Article 1, Chapter 43, Revised Code of the State of Delaware, 1935, as amended by Chapter 113, Volume 45, Laws of Delaware, by either the County Council of New Castle County or by other officers or agencies of the County, are legalized, validated and confirmed, notwithstanding any error or omission or irregularity in the acts or proceedings, or in any petition submitted to the County Council under such act, or any lack of authority therefor; provided:

(1) The County Council shall have fixed the boundaries of such sanitary district after holding a public hearing at which all interested persons, officials, residents, voters, taxpayers, property owners or other persons or corporations in any way affected were afforded an opportunity to be heard on any question dealing with the location of the boundaries of the district, and

(2) Such public hearing shall have been previously advertised by posting notice thereof in 1 or more public places within such district at least 10 days prior to such public hearing and by publishing a copy of such notice in a newspaper published within New Castle County and having a general circulation therein, once in each of the 2 weeks immediately preceding the week in which such public hearing was held, and

(3) A majority of the voters voting at an election held in such district by order of the County Council shall have voted for the establishment of the district.

(47 Del. Laws, c. 178, § 2; 9 Del. C. 1953, § 2320; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15.)

## § 2321. Order to connect to sanitary sewer; enforcement.

(a) The County Council may, where it deems it necessary to the preservation of public health, order the owner of any lot or parcel of land within a sanitary district which abuts upon a street or other public way containing a sanitary sewer, which is part of or which is

served or may be served by the county sewerage system and upon which lot or parcel of land a building shall have been constructed for residential, commercial or industrial use, to connect such building with such sanitary sewer.

(b) If any owner shall fail to comply within 60 days with such order to connect with a sanitary sewer, the County Council shall forthwith institute action in a Justice of the Peace Court in New Castle County or in the Court of Chancery of the State to compel compliance with such order.

(9 Del. C. 1953, § 2321; 49 Del. Laws, c. 54; 55 Del. Laws, c. 85, § 15; 71 Del. Laws, c. 401, § 15; 77 Del. Laws, c. 303, § 2.)

# Part II
# New Castle County
## Chapter 24
## Garbage Disposal

### § 2401. Acquisition of land generally; construction and operation of incineration or garbage disposal plant.

The County Council may acquire land or any interest therein at any place within the County that it deems advisable and may construct and operate upon the land so acquired an incineration or garbage disposal plant or plants. The County Council may enter into contracts and agreements with persons, firms or corporations relative to the purchase of the land and to the building, constructing and equipping of an incineration or garbage disposal plant or plants and may require from such persons, firms or corporations proper security for the faithful performance of the work to be done. The County Council may engage the services of competent architects and engineers in connection with the construction of the plant or plants and shall award any contract to the lowest responsible bidder with the right to reject any and all bids.

(48 Del. Laws, c. 377, § 1; 9 Del. C. 1953, § 2401; 55 Del. Laws, c. 85, §§ 16A-16C; 71 Del. Laws, c. 401, § 15.)

### § 2402. Acquisition by purchase or eminent domain; condemnation proceedings.

(a) The County Council may acquire the land or interest therein either by purchase or by the exercise of the right of eminent domain which is expressly granted. In any case in which the County Council considers it necessary to acquire the land or interest therein by the right of eminent domain, the County Council shall proceed in accordance with the procedure prescribed in Chapter 61 of Title 10.

(b) The right of eminent domain granted in subsection (a) of this section shall extend to and include the right to acquire the fee simple title to land, or an easement or a right-of-way in, to, over or above such land or property as the County Council deems necessary.

(c) Upon the institution of condemnation proceedings, the County Council may state in the complaint that the possession, right to enter, or occupancy of the land or interest therein is necessary to the project without delay, and the title to the land in fee simple absolute, or such lesser estate or interest therein, as may be specified, shall immediately pass to and vest in New Castle County, and said lands or interest therein shall be deemed to be condemned and taken for the use of such County, and the right to just compensation therefor shall vest in and to the person or persons entitled thereto. In the event of an immediate taking as specified in this subsection, the Superior Court may fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the County, and make such orders in respect to incumbrances, leases, taxes, rights, assessments, insurance or other charges, if any, as shall be just and equitable. The right to take possession and title in advance of final order or judgment in condemnation proceedings as provided in this subsection shall be in addition to any right, power or authority conferred by the laws of this State under which such proceedings may be conducted, and shall not be construed as limiting or modifying any such right, power or authority.

(48 Del. Laws, c. 377, § 2; 9 Del. C. 1953, § 2402; 55 Del. Laws, c. 85, §§ 16A-16C; 71 Del. Laws, c. 401, § 15.)

### § 2403. Powers of County Council as to operation of plant; regulations and charges for service.

(a) The County Council may enter into contracts, leases or agreements of any nature pertaining to the operation of the incineration and garbage disposal plant or plants, including the right to sell such portion of land acquired as may not be necessary to use. The power to contract shall include the power to contract with any governmental agency of any sort whatsoever and to receive grants-in-aid from any such agency or any other person or organization.

(b) The County Council may adopt regulations and establish fees and charges for the services rendered by the said incineration and garbage disposal plant or plants.

(48 Del. Laws, c. 377, § 3; 9 Del. C. 1953, § 2403; 55 Del. Laws, c. 85, §§ 16A-16C; 71 Del. Laws, c. 401, § 15.)

### § 2404. Power to borrow money and issue bonds; interest rates.

The County Council may borrow money upon the faith and credit of the County as provided in this chapter for the purpose of acquiring land and property for the establishment of an incineration and garbage disposal plant or plants and for the construction of such a plant or plants in the County and for the purpose of securing the payment of such sum to issue bonds in such denominations and bearing such rate of interest, not exceeding 5 percent per annum, and in such form as the County Council shall deem expedient. The interest upon said bonds shall be payable semiannually in each and every year after the date of issuance thereof.

(48 Del. Laws, c. 377, § 4; 9 Del. C. 1953, § 2404; 49 Del. Laws, c. 353; 55 Del. Laws, c. 85, §§ 16A-16C; 71 Del. Laws, c. 401, § 15.)

### § 2405. Terms of bonds.

The County Council shall decide upon and determine the form and time or times of maturity of the bonds provided that no bond shall be issued for a term exceeding 25 years. The bonds may or may not at the option of the County Council be made redeemable at such time or times before maturity, at such price or prices and under such terms and conditions as may be fixed by the County Council prior

to the issuance of the bonds. The bonds shall contain such other provisions, not inconsistent with the requirements of this chapter, as the County Council may deem expedient.

(48 Del. Laws, c. 377, §§ 5, 9; 9 Del. C. 1953, § 2405; 55 Del. Laws, c. 85, §§ 16A-16C; 71 Del. Laws, c. 401, § 15.)

## § 2406. Execution and record of bonds.

The bonds shall be prepared under the supervision of the County Council and shall be signed by the Department of Finance and the County Executive, and shall be under the seal used by the County Council of New Castle County. Such officers shall execute the bonds when directed by the County Council to do so. The Department of Finance and the County Council shall keep a record of the bonds.

(48 Del. Laws, c. 377, § 6; 9 Del. C. 1953, § 2406; 55 Del. Laws, c. 85, §§ 16A-16D; 71 Del. Laws, c. 401, § 15.)

## § 2407. Sale of bonds.

The bonds or any part thereof may be sold when and as the County Council by resolution determines and until sold shall remain in the custody of the Department of Finance. Whenever in the judgment of the County Council it is deemed advisable that any part or all of the bonds shall be sold, the County Council may sell and dispose of the same at public sale after having advertised the same in the public press at least once each week for at least 2 weeks. No commission or other compensation shall be charged or paid to any members of the County Council for effecting the sale or negotiation of such bonds.

(48 Del. Laws, c. 377, § 7; 9 Del. C. 1953, § 2407; 55 Del. Laws, c. 85, §§ 16A-16C; 71 Del. Laws, c. 401, § 15.)

## § 2408. Principal and interest payments; taxes.

(a) The principal of and interest on the bonds shall be payable when due and payable from money appropriated from time to time by New Castle County.

(b) The County Council in fixing the rate of taxation shall annually provide for a sum equal to the amount of such bonds in addition to the amount necessary to pay the interest upon the unpaid bonds as before provided, which shall, when collected and paid to the Department of Finance be set apart by it in a separate account to be opened for that purpose; and the Department of Finance shall apply the said sum annually to the payment of such part of said loan and interest thereon as may from time to time become due under this chapter.

(48 Del. Laws, c. 377, § 8; 9 Del. C. 1953, § 2408; 55 Del. Laws, c. 85, §§ 16A-16C; 63 Del. Laws, c. 142, § 18; 71 Del. Laws, c. 401, § 15.)

## § 2409. Deposit and use of proceeds of sale of bonds; liability of purchasers or holders.

(a) All money received from the sale of any or all of such bonds, after the payment of the charges and expenses connected with the preparation and sale thereof, shall be deposited by the Department of Finance in a state or national bank designated by New Castle County, to the credit of the County Council of New Castle County in a separate account and payments thereof shall be made in the same manner as other payments by the County Council. No part of the money thus obtained, except as in this section provided, shall be used for any other purpose than those stated in this chapter.

(b) The purchasers or holders of the bonds shall not be bound to see to or be affected by the application of the money realized from the sale of the bonds.

(48 Del. Laws, c. 377, § 9; 9 Del. C. 1953, § 2409; 55 Del. Laws, c. 85, §§ 16A-16C; 63 Del. Laws, c. 142, § 19; 71 Del. Laws, c. 401, § 15.)

## § 2410. Exemption of bonds from taxation.

The bonds shall be exempt from all state, county and municipal taxation.

(48 Del. Laws, c. 377, § 9; 9 Del. C. 1953, § 2410.)

## § 2411. Definitions.

The words “garbage disposal plant or plants” wherever used in this chapter include incineration, sanitary landfill, garbage grinding plants, composting for disposal of garbage, or any other means of garbage disposal which shall conform with reasonable standards of sanitary engineering.

(9 Del. C. 1953, § 2411; 52 Del. Laws, c. 89.)

# Part II
# New Castle County
## Chapter 25
## Building Code

### § 2501. Definitions.

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

(1) "Building" means a structure having a roof and intended to shelter persons, animals, property or a business activity. The word "building" shall be construed to include parts thereof and all equipment therein.

(2) "Building sewer system" means equipment, appliances, pipes, fittings, fixtures and other appurtenances that convey liquid and water-carried waste from the building or structure to a public sewer, private sewer, individual sewage disposal system or other point of disposal.

(3) "Construction," "construct" or "constructed" means the building, installation, alteration, repair, replacement, maintenance, removal or demolition of a building, structure, mechanical system, fuel gas system, plumbing system, building sewer or similar system, or the components thereof.

(4) "Contractor" means a person engaged in construction activity regulated by the New Castle County Building Code.

(5) "County Council" shall mean the County Council for New Castle County.

(6) "Department of Land Use" shall mean the New Castle County Department of Land Use.

(7) "Fuel gas system" shall mean natural or liquid gas appliances and related accessories, including gas piping extending from the point of delivery to the inlet connections of appliances.

(8) "Mechanical system" shall mean a system permanently installed and utilized to provide for the control of environmental conditions and related processes within buildings and structures, including equipment, appliances, fixtures, fittings, and appurtenances, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy related systems.

(9) "Permit" includes any building permit, license, zoning permit, certificate of occupancy, certificate of use, certificate of completion, subdivision approval and any other official action of government having the effect of permitting construction, occupancy or use.

(10) "Plumbing system" means the equipment, appliances, pipes, fittings, fixtures and other appurtenances in or about a building or structure for bringing in the water supply and removing liquid and water-carried waste.

(11) "Structure" shall mean a man made object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

(75 Del. Laws, c. 85, § 5.)

### § 2502. Promulgation of building code.

The County Council, in order to provide for the health and safety of the citizens of New Castle County, shall promulgate rules and regulations, to be known as the New Castle County Building Code, controlling, regulating and supervising persons engaged in construction activities and providing for matters concerning, affecting or relating to home improvement contracts and to the construction, use or occupancy, location and maintenance of buildings and structures located in New Castle County and the mechanical systems, fuel gas systems, plumbing systems, building sewer systems or similar systems, or components thereof, within or about such buildings and structures.

(44 Del. Laws, c. 84, § 2; 16 Del. C. 1953, § 8301; 50 Del. Laws, c. 204, § 1; 53 Del. Laws, c. 348, § 1; 75 Del. Laws, c. 85, § 5; 78 Del. Laws, c. 334, § 1.)

### § 2503. Existing building; application to.

No provision as adopted by the County Council shall be construed to require any change in, alteration of or addition to a legally existing building or structure or the premises connected therewith, unless specially stated to so apply.

(44 Del. Laws, c. 84, § 4; 16 Del. C. 1953, § 8302; 75 Del. Laws, c. 85, § 5.)

### § 2504. Registration and testing of contractors.

The County Council may promulgate rules and regulations requiring persons engaged in construction activity regulated by the New Castle County Building Code to register with the Department of Land Use and take such tests or examinations necessary to demonstrate that such persons are competent to complete regulated work in a safe and sanitary manner.

(75 Del. Laws, c. 85, § 5.)

### § 2505. Fees.

The County Council shall adopt rules and regulations providing for the charge of reasonable fees for the administration and enforcement of the New Castle County Building Code including fees for the issuance of permits, inspections and registration. The basis for establishing

building permit costs shall be limited to the building or structure and its functional parts including its mechanical system, fuel gas system, plumbing system, building sewer system or any other similar system within or about such building or structure.

(44 Del. Laws, c. 84, § 13; 16 Del. C. 1953, § 8312; 53 Del. Laws, c. 348, § 2; 75 Del. Laws, c. 85, § 5.)

## § 2506. Department of Land Use; administration and enforcement.

The Department of Land Use shall have the power and authority to administer and enforce all provisions of the New Castle County Building Code as promulgated by the County Council except as otherwise provided for by this chapter or by rule and regulation adopted by County Council.

(75 Del. Laws, c. 85, § 5.)

## § 2507. Inspections and certifications of compliance.

Inspections required under the provisions, rules and regulations adopted by the County Council shall be made by the Department of Land Use. In the case of the inspection of elevators, fuel oil equipment or electric wiring, the Department of Land Use may accept reports of inspectors of casualty companies or of other recognized inspection services after investigation of their qualifications and reliability. Certifications required under the provisions, rules and regulations adopted by the County Council shall be in writing and certified over the signature of the person verifying that the provisions of the New Castle County Building Code are complied with and that there are no unsafe conditions.

(44 Del. Laws, c. 84, § 9; 16 Del. C. 1953, § 8307; 75 Del. Laws, c. 85, § 5.)

## § 2508. Records.

(a) The Department of Land Use shall keep a careful and comprehensive record of applications, of permits issued, of inspections made, of reports rendered and of notices or orders issued. The Department of Land Use shall retain on file copies or electronic versions of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence, except that construction plans for buildings or structures of less than $200,000 value need not be retained after work shown on such plans has been completed and has been approved and accepted. The Department of Land Use shall keep a record of all violations of any rules or regulations promulgated by the County Council, with the name of the owner or builder and the location where such violations are found.

(b) All records shall be open to public inspection at the discretion of the Department of Land Use and subject to the Delaware Freedom of Information Act [Chapter 100 of Title 29] but shall not be removed from the Department.

(44 Del. Laws, c. 84, § 10; 16 Del. C. 1953, § 8308; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 85, § 5.)

## § 2509. Construction of buildings, structures and equipment; use and occupancy.

(a) No building or structure shall be constructed by a registered contractor or an individual holding a permit as provided for in this chapter, nor shall the equipment and materials that are part of or related to the electrical system, mechanical system, fuel gas system, plumbing system, building sewer system or similar system in or about a building or structure, be constructed except in compliance with the provisions of the New Castle County Building Code as promulgated by the County Council.

(b) No building or structure shall be constructed in any manner that would be in violation of the New Castle County Building Code as promulgated by the County Council or of any authorized order or rule of the Department of Land Use made and issued thereunder.

(c) No building or structure shall be used or occupied, in whole or in part, and no change to the existing use or occupancy classification of a building or structure or portion thereof shall be made until the Department has issued an occupancy or use permit.

(d) No equipment or material that is part of or related to the electrical system, mechanical system, fuel gas system, plumbing system, building sewer system or similar system, in or about a building or structure, and for which a permit is required for the construction of said equipment, material or system, may be put into use or operation until the Department has issued a permit or certificate allowing its use or operation.

(e) No building or structure shall be constructed using public financial assistance in a manner that violates Chapter 42 of Title 31, and no occupancy or use permit shall be issued unless such building or structure complies with Chapter 42 of Title 31.

(44 Del. Laws, c. 84, §§ 3, 4; 16 Del. C. 1953, § 8310; 75 Del. Laws, c. 85, § 5; 78 Del. Laws, c. 368, § 1.)

## § 2510. Application for permits.

No person shall commence construction of a building or structure, or any electrical system, mechanical system, fuel gas system, plumbing system, building sewer system or similar system, or component thereof, within or about a building and structure, where such construction is regulated by the New Castle County Building Code, without first filing with the Department of Land Use an application in writing for such issuance of the building permit. The Department of Transportation, through the Office of Aeronautics, shall respond to the Department of Land Use regarding any objections to the issuance of a building permit, within 30 days of the Department of Transportation's receipt of such permit for review.

(44 Del. Laws, c. 84, § 12; 16 Del. C. 1953, §§ 3005, 8311; 55 Del. Laws, c. 49; 57 Del. Laws, c. 754, §§ 3, 4; 60 Del. Laws, c. 293, § 3; 69 Del. Laws, c. 182, § 1; 70 Del. Laws, c. 575, § 19; 75 Del. Laws, c. 85, § 5.)

## § 2511. Use and maintenance of building or structure erected in violation of code.

(a) No person shall maintain, occupy or use a building or structure or part thereof that has been constructed in violation of this chapter or of any of the provisions, rules or regulations delineated in the New Castle County Building Code as adopted by the County Council of New Castle County pursuant to the purpose of this chapter or constructed in violation of any permit, certificate, detailed statement or plan accepted or approved by the Department or in violation of any order of the Department.

(b) A person who has constructed or is maintaining such a building or structure or constructed a mechanical system, fuel gas system, plumbing system, building sewer system or similar system, or component thereof, shall remove the building, structure or system or cause the same to be removed. If such person fails to do so, the Department of Land Use may remove such unlawful building, structure or system or cause the same to be removed or altered to comply with the law. Whatever expense shall be incurred in relation thereto shall be paid by the Office of Finance out of the moneys in the Treasury; and the owner or owners shall be jointly and severally liable to New Castle County for the full amount so expended. New Castle County may maintain an action at law against such owner or owners to recover the sums of moneys so expended, plus lawful interest and costs.

(44 Del. Laws, c. 84, § 5; 16 Del. C. 1953, § 8314; 75 Del. Laws, c. 85, § 5.)

## § 2512. Violation of regulations or chapter; notices and orders.

(a) For the purpose of enforcing compliance with the provisions of the New Castle County Building Code, the requirements of any permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use, or to remove illegal or unsafe conditions, to secure the necessary safeguards during construction or to require adequate exit facilities in existing buildings, the Department of Land Use shall issue such rules, notices or orders as may be necessary.

(b) Whenever the Department of Land Use is satisfied that a building or structure, mechanical system, fuel gas system, plumbing system, building sewer system or similar system, or component thereof, or any work in connection therewith, the construction of which is regulated, permitted or forbidden by any of the rules or regulations as adopted by the County Council, is being constructed in violation or rules, regulations or requirements as promulgated by the County Council or in violation of a permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use, or order of the Department of Land Use, the Department of Land Use may serve a written notice or order upon the person responsible therefore directing discontinuance of each illegal action and the remedying of the condition which is in violation of the provisions, regulations or requirements as adopted by the County Council or required by permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use or by order of the Department of Land Use.

(c) No person having been served with such a notice or order shall fail within 5 days to comply with the requirements thereof unless the Department of Land Use determines that such violation cannot be cured within such time and clearly delineates additional time for compliance.

(d) Whenever in the opinion of the Department, by reason of defective or illegal work in violation of a provision or requirement adopted by the County Council of New Castle County, or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use or in violation of any order of the Department of Land Use or the continuance of a building operation is contrary to public welfare, the Department may order, in writing, that all further work be stopped immediately and may require suspensions of work until the condition in violation has been remedied.

(44 Del. Laws, c. 84, § 14; 16 Del. C. 1953, § 8313; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 85, § 5.)

## § 2513. Penalties.

The owner of a building, structure or premises in violation of this chapter or the rules or requirements as promulgated by the County Council or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use, or in violation of an order of the Department of Land Use, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who has participated or assisted in the commission of such violation shall each be fined not more than $1,000 for each offense and each and every day such violation continues shall constitute a separate offense.

(44 Del. Laws, c. 84, § 15; 16 Del. C. 1953, § 8315; 75 Del. Laws, c. 85, § 5.)

## § 2514. Abatement proceedings.

The imposition of the penalties in this chapter shall not preclude the Attorney General, County Attorney or Code Enforcement Constable from instituting appropriate actions or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

(44 Del. Laws, c. 84, § 16; 16 Del. C. 1953, § 8316; 75 Del. Laws, c. 85, § 5.)

## § 2515. Exceptions.

This chapter does not apply to any of the following:

(1) A building or structure devoted to agricultural use as defined in Chapter 26 of this title.

(2) A property, building, or structure located within a municipality unless New Castle County has any responsibility for the local service function under § 1102 of this title.

(44 Del. Laws, c. 84, § 17; 45 Del. Laws, c. 111, § 1; 16 Del. C. 1953, § 8317; 53 Del. Laws, c. 348, § 3; 58 Del. Laws, c. 277; 75 Del. Laws, c. 85, § 5; 83 Del. Laws, c. 7, § 7.)

# Part II
# New Castle County
## Chapter 26
## Zoning
### Subchapter I
### General Provisions

### § 2601. Power of County Council; area subject to regulation.

(a) The County Council may, in accordance with the conditions and procedure specified in this subchapter, regulate the location, height, bulk and size of buildings, parking areas, and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings, parking areas, and structures for trade, industry, residence, recreation, public activities or other purposes and the uses of land for trade, industry, residence, parking, recreation, public activities, water supply conservation, soil conservation or other similar purposes, in any portion or portions of New Castle County which lie outside of incorporated municipalities; provided however, that no such regulation or regulations promulgated pursuant to Chapter 30 of this title shall apply to any lands, buildings, parking areas, or other structures proposed to be used by or for any nonprofit corporation organized under the laws of this State and engaged at the time of such proposal in the operation in this State of 1 or more acute general hospital facilities for the purpose of such or similar operations, or to any lands, buildings, parking areas, or other structures of such corporation devoted to such operations. The territory lying within incorporated municipalities shall be included upon request made by the governing body or authority thereof.

(b) Notwithstanding subsection (a) of this section, no such regulation or regulations shall apply to any land, building, greenhouse or other structure proposed to be devoted to any agricultural use or which is devoted at the time of such proposal to agricultural use or to any land, building, greenhouse or other structure owned by a cooperative agricultural associations or a corporation which is or is proposed to be devoted to agricultural use. For the purposes of this subsection, any land, building, greenhouse or structure shall be deemed to be devoted to agricultural use if:

(1) The land, building, greenhouse or structure is assessed pursuant to § 8335 of this title;

(2) The land, building, greenhouse or structure is within an Agricultural Preservation District pursuant to Chapter 9 of Title 3;

(3) The person who owns, leases or otherwise controls the land, building, greenhouse or structure is required to implement a nutrient management plan or agricultural waste management plan for the same and the land, building, greenhouse or structure itself is devoted to or used in the production for sale of plants and animals useful to man, including but not limited to:

a. Forages and sod crops;

b. Grains and feed crops;

c. Dairy animals and dairy products;

d. Poultry and poultry products;

e. Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals;

f. Bees and apiary products;

g. Fish, hydroponic and aquacultural products;

h. Fur animals; and

i. Trees and forest products;

(4) The land, building, greenhouse or structure is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government;

(5) The land, building or structure is a farm market or roadside stand provided:

a. The products offered for sale are grown or produced on the subject farm or lands in agriculture production associated with such farm operation; or

b. The products are grown or produced on a local regional farm, and such farm market or roadside stand shall comply with the following provisions:

1. All buildings, structures and associated canopies shall comply with the building height setback requirements established by the local jurisdiction within its zoning ordinances. All construction shall conform to applicable building codes and building permit requirements as enacted by the local jurisdiction;

2. Off street customer parking shall be provided in accordance with the provisions of the zoning ordinance of the local jurisdiction provided that at least 1 parking space shall be provided for each 100 square feet of floor area of the establishment. The area of 1 parking space shall be equivalent to a standard parking stall of 9# x 18#;

3. If a new vehicular entrance is proposed to support a farm market or roadside stand, an entrance permit shall be obtained from the Delaware Department of Transportation prior to the start of construction; and

4. Signage shall comply with signage provisions and permitting requirements established by the local jurisdiction within its zoning ordinances; and

(6) The land, building or structure is used for an agritourism activity, and such land, building or structure complies with the following provisions:

a. All buildings, structures and associated canopies shall comply with the building height setback requirements established by the local jurisdiction within its zoning ordinances. The construction of buildings or structures to be used by the participants of any agritourism activity shall conform to applicable building codes and building permit requirements enacted by the local jurisdiction;

b. If a new vehicular entrance is necessary to support an agritourism activity, an entrance permit shall be obtained from the Delaware Department of Transportation prior to the start of construction; and

c. Any signage shall comply with signage provisions and permitting requirements established by the local jurisdiction, as well as any applicable signage regulations adopted by the Department of Transportation.

(c) Notwithstanding subsection (a) of this section, no such regulation or regulations shall apply to the agricultural uses of conducting hayrides, horseback riding, guided tours, barn parties and petting zoos.

(48 Del. Laws, c. 321, § 1; 9 Del. C. 1953, § 2601; 55 Del. Laws, c. 85, § 18A; 60 Del. Laws, c. 661, § 1; 66 Del. Laws, c. 207, § 1; 71 Del. Laws, c. 401, § 15; 74 Del. Laws, c. 144, § 1; 75 Del. Laws, c. 244, §§ 1, 2; 76 Del. Laws, c. 409, § 2; 78 Del. Laws, c. 143, §§ 1-3; 80 Del. Laws, c. 141, § 1.)

## § 2602. Zoning plan and regulations.

(a) For any or all of the purposes specified in § 2601 of this title the County Council may divide the territory of New Castle County into districts or zones of such number, shape, or area as it may determine, and within such districts, or any of them, may regulate the erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land.

(b) All such regulations shall be uniform for each class or kind of buildings throughout any district, but the regulations in 1 district may differ from those in other districts.

(48 Del. Laws, c. 321, § 2; 9 Del. C. 1953, § 2602; 55 Del. Laws, c. 85, §§ 18A, 18C; 71 Del. Laws, c. 401, § 15.)

## § 2603. Purposes of regulations.

(a) Regulations adopted by the County Council, pursuant to the provisions of this subchapter, shall be in accordance with a comprehensive development plan adopted pursuant to this title, and shall be designated and adopted for the purpose of promoting the health, safety, morals, convenience, order, prosperity or welfare of the present and future inhabitants of this State, including, among other things, the lessening of congestion in the streets or roads or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, preventing on the 1 hand excessive concentration of population and on the other hand excessive and wasteful scattering of population or settlement, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and provide adequate provisions for public requirements, transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supply, protection of the tax base, securing economy in governmental expenditures, fostering the State's agricultural and other industries, and the protection of both urban and nonurban development.

(b) The regulations shall be made with reasonable consideration, among other things, of the character of the particular district involved, its peculiar suitability for particular uses, the conservation of property values and natural resources and the general and appropriate trend and character of land, building and population development.

(48 Del. Laws, c. 321, § 3; 9 Del. C. 1953, § 2603; 55 Del. Laws, c. 85, § 18A; 66 Del. Laws, Sp. Sess., c. 199, § 1; 66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 1; 71 Del. Laws, c. 401, § 15.)

## § 2604. Assistance from and cooperation with other agencies.

The Department of Land Use shall make use of the expert advice and information which may be furnished by appropriate state, federal, or other officials, departments and agencies. All officials, departments, and agencies within the State having information, maps, and data pertinent to county zoning shall make the same available for the use of the Department of Land Use, as well as furnish such other technical assistance and advice as they may have available for such purpose.

(48 Del. Laws, c. 321, § 5; 9 Del. C. 1953, § 2605; 55 Del. Laws, c. 85, § 18B; 71 Del. Laws, c. 401, § 85.)

## § 2605. Department's powers in conduct of public hearing.

At any public hearing held pursuant to this subchapter, the Department of Land Use may summon witnesses, administer oaths and compel the giving of testimony.

(48 Del. Laws, c. 321, § 6; 9 Del. C. 1953, § 2609; 55 Del. Laws, c. 85, § 18B; 66 Del. Laws, c. 207, § 1; 71 Del. Laws, c. 401, § 85.)

## § 2606. Adoption by county government of zoning plan and regulations; public hearing and notice; consultative hearings; resubmission to Department of Planning [Repealed].

Repealed by 71 Del. Laws, c. 401, § 86, effective July 13, 1998.

## § 2607. Changes in zoning district, plan or regulations; procedure.

(a) The County Council may, from time to time, make amendments, supplements, changes, modifications (herein called "changes"), in accordance with a comprehensive development plan adopted pursuant to Chapter 13 of this title, with respect to the number, shape, boundary or area of any district or districts, or any regulation of, or within, such district or districts, or any other provision of any zoning regulation or regulations, but no such changes shall be made or become effective until the same shall have been proposed by or be first submitted to the Department of Land Use.

(b) With respect to any proposed changes, the Department of Land Use shall hold at least 1 public hearing, notice of which hearing shall be published at least 7 days before the date of the hearing in a newspaper of general circulation in the County. The notice shall contain the time and place of hearing, and shall specify the nature of the proposed change in a general way and shall specify the place and times at which the text and map relating to the proposed change may be examined.

(c) Unless such Department of Land Use shall have transmitted its report upon the proposed changes within 45 days after the submission thereof to it, the County Council shall be free to proceed to the adoption of the changes without further awaiting the receipt of the report of the Department of Land Use. In any event, the County Council shall not be bound by the report of the Department of Land Use. Before finally adopting any such changes, the County Council shall hold a public hearing thereon, at least 15 days notice of the time and place of which shall be given by at least 1 publication in a newspaper of general circulation in the County.

(48 Del. Laws, c. 321, § 8; 9 Del. C. 1953, § 2611; 50 Del. Laws, c. 118, § 1; 55 Del. Laws, c. 85, §§ 18A, 18B; 66 Del. Laws, Sp. Sess., c. 199, § 2; 66 Del. Laws, c. 201, § 1; 71 Del. Laws, c. 401, §§ 15, 85.)

## § 2608. Zoning coordination and integration; committees and rules of Department of Land Use.

(a) The New Castle County Department of Land Use may cooperate with other planning and zoning commissions within New Castle County and within other counties and states, and with the planning, zoning, legislative and administrative authorities of incorporated or unincorporated municipalities, either within or without such County, with a view to coordinating and integrating the zoning of the County with the planning and zoning of other counties or of municipalities.

(b) The Department of Land Use may appoint committees and adopt such rules for the conduct of its business as it deems proper to effect such cooperation or to more expeditiously and effectively perform its functions.

(48 Del. Laws, c. 321, § 9; 9 Del. C. 1953, § 2612; 55 Del. Laws, c. 85, § 18B; 71 Del. Laws, c. 401, § 85.)

## § 2609. Violations of regulations or subchapter; enforcement, remedies and penalties.

(a) No person shall erect, construct, reconstruct, alter, maintain or use any building or structure or use any land in violation of any regulation in or of any provision of, any zoning regulation, or any change thereof, enacted or adopted by the County Council under the authority of this subchapter.

(b) Whoever violates any such regulation, provision or change of this subchapter, shall be fined not more than $100, or imprisoned not more than 10 days, or both.

(c) Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

(d) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used, in violation of this subchapter or of any regulation or provision of any regulation, or change thereof, enacted or adopted by the County Council under the authority granted by this subchapter, the County Council, the attorney thereof, or any owner or occupier of real estate within the district or within an adjoining district in which such building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(48 Del. Laws, c. 321, § 13; 9 Del. C. 1953, § 2619; 54 Del. Laws, c. 222; 55 Del. Laws, c. 85, § 18A; 66 Del. Laws, c. 207, § 1; 71 Del. Laws, c. 401, § 15.)

## § 2610. Nonconforming uses of land or buildings.

(a) The lawful use of a building or structure, or the lawful use of any land, as existing and lawful at the time of the enactment of a zoning regulation, or in the case of a change of regulations, then at the time of such change, may, except as hereinafter provided, be continued although such use does not conform with the provisions of such regulations or change, and such use may be extended throughout the same building, provided no structural alteration of such building is proposed or made for the purpose of such extension. County Council in any zoning regulations may permit the restoration, reconstruction, extension or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning regulations.

(b) If the County acquires title to any property by reason of tax delinquency and such properties are not redeemed as provided by law, the future use of such property shall be in conformity with the then existing provisions of the zoning regulations of the County,

or with any change of such regulations, equally applicable to other like properties within the district in which the property acquired by the County is located.

(48 Del. Laws, c. 321, § 14; 9 Del. C. 1953, § 2620; 55 Del. Laws, c. 85, § 18A; 71 Del. Laws, c. 400, §§ 2.)

## § 2611. Conflict between zoning regulations and other laws.

Whenever any regulation made under authority of this subchapter requires a greater width or size of yards, courts or other open spaces, or requires a lower height of buildings or smaller number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required in or under any other statute or local regulation, the regulations made under authority of this subchapter shall govern. Whenever any other statute or local regulation requires a greater width or size of yards, courts or other open spaces, or requires a lower height of buildings or a lesser number of stories, or requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required by any regulations made under authority of this subchapter, such statute shall govern.

(48 Del. Laws, c. 321, § 17; 9 Del. C. 1953, § 2623; 66 Del. Laws, c. 207, § 1.)

## § 2612. Residential facilities for persons with disabilities.

(a) For purposes of all county zoning ordinances a residential facility licensed or approved by a state agency serving 10 or fewer persons with disabilities on a 24-hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For the purposes of this section, the term "persons with disabilities" includes any persons with a handicap or disability as those terms are defined in the Delaware Fair Housing Act (Chapter 46 of Title 6).

(c) [Repealed]

(62 Del. Laws, c. 390, § 1; 74 Del. Laws, c. 149, §§ 1, 2, 3.)

## § 2613. Notice to local school districts of residential zoning changes.

With respect to any proposed residential zoning change the County Council shall notify the local school district for the area at least 7 days prior to the initial hearing upon such residential zoning change.

(66 Del. Laws, Sp. Sess., c. 195, § 1; 71 Del. Laws, c. 401, § 15.)

## § 2614. Changes in zoning.

(a) Unless the Department of Land Use recommends approval of a rezoning, the County Council shall not change the zoning for any parcel of land without the County Council approving such change in zoning by a concurrence of two thirds of all members elected to the County Council.

(b) Any rezoning which is approved subject to restrictions shall require a two-thirds vote of all members elected to the County Council to release, remove or change such restrictions, unless the Department of Land Use recommends approval of the release, removal or change of said restrictions, in which case a simple majority of all members elected to the County Council shall be required.

(68 Del. Laws, c. 272, § 1; 69 Del. Laws, c. 27, § 1; 71 Del. Laws, c. 401, §§ 15, 85.)

## § 2615. Notice to property owners of zoning changes.

With respect to any proposed zoning change, unless the owner applies for the change or consents to the change, the county government shall notify the owner of the property and all adjacent property owners to the extent and in the manner the county by ordinance so provides as of June 28, 2000, mailed at least 7 days prior to the initial hearing upon such zoning change.

72 Del. Laws, c. 415 shall become effective for zoning changes initiated after enactment of this act.

(72 Del. Laws, c. 415, § 1.)

## § 2616. Emergency Communication Systems [Effective until Feb. 1, 2027].

(a) "Emergency communications equipment" includes, but is not limited to: repeater systems, 2-way radio communications, signal boosters, bi-directional amplifiers, radiating cable systems or internal antenna or any combination of the foregoing.

(b) "Emergency public safety personnel" includes firefighters, emergency medical services personnel, law-enforcement officers and other personnel routinely called upon to provide emergency assistance to members of the public in a wide variety of emergency situations, including but not limited to, fires, medical emergencies, crimes and terrorist attacks.

(c) "Newly constructed buildings" are defined as any structure of 25,000 square feet or more for which a building permit is issued commencing February 24, 2008. New construction shall not be construed as a renovation or modification of a building, or an expansion or addition to a building which is contiguous to an existing building for which a permanent certificate of occupancy was in effect by February 24, 2008. A structure shall be considered new construction even if it is physically connected to an existing structure exempt from the provisions of this section if it is not contiguous to the structure. "Contiguous structures" shall mean at least 2 structures that share a common wall or floor.

(d) The zoning ordinance and regulations adopted pursuant to this section shall provide that newly constructed buildings of 25,000 square feet of gross floor area or more shall be designed, constructed and/or equipped so that they meet the GAT (Grid Acceptance Test) at 95% compliance for 800 MHz public safety in-building communications coverage. The in-building coverage required under this section may occur naturally or may require in-building emergency communications equipment as defined in subsection (a) of this section.

(e) No issuing agency shall award a permanent certificate of occupancy unless a building affected under this section meets the GAT 95% coverage requirement. An issuing agency may issue a temporary certificate of occupancy for a period of 3 months if a reasonable effort has been made to meet the requirements under this section prior to the issuance of the temporary certificate of occupancy.

(f) The Delaware Department of Safety and Homeland Security (DSHS), or its designee, shall develop and promulgate rules and regulations for the implementation of the provisions in this section. The Secretary of DSHS shall form an advisory committee consisting of representatives of state agencies and private commercial and industrial building interests to develop the rules and regulations specified in this section. The advisory committee shall be comprised of no more than 16 members which shall consist at least of the following members:

(1) The Secretary of the Department of Safety and Homeland Security or the Secretary's designee;

(2) A representative of the Office of Facilities Management to be appointed by the Director of the Office of Management and Budget;

(3) A representative of the Delaware Volunteer Firefighter's Association;

(4) A representative from Emergency Medical Service;

(5) A representative from the Delaware State Police to be appointed by the Colonel of the State Police;

(6) A representative of the Police Chiefs Council to be appointed by the President of the Police Chiefs Council;

(7) A representative from the Delaware Department of Transportation [DelDOT] to be appointed by the Secretary of the DelDOT;

(8) A representative of the Delaware Department of Technology and Information to be appointed by the Chief Information Officer of the Delaware Department of Technology and Information;

(9) A representative from the Delaware Healthcare Association;

(10) A member of the Commercial Industrial Realty Council;

(11) Two members at-large to be appointed by the Governor of the State of Delaware.

The remaining members shall be appointed by the Governor and shall represent owners and developers of buildings greater than 100,000 square feet. The Advisory Committee shall expire upon completion and adoption of the rules and regulations under this section, but no later than February 28, 2009.

(g) The rules and regulations promulgated by the Department of Safety and Homeland Security shall not require any building to be certified for 95% in-building coverage until all 800 MHz communications towers within a county, under the Next Generation 800 MHz Project in effect at the time this section is enacted, are fully operational. If a building otherwise subject to the provisions of this section is temporarily exempt from certification under this section due to unfinished towers in a county, the design and construction of a building shall incorporate the means to later install any equipment necessary to meet the 95% GAT in-building coverage requirement. A building temporarily exempted under this subsection shall be certified within 6 months after all Next Generation 800 MHz communication towers are fully operational within a county. The Department of Safety and Homeland Security shall publish, and update, on its website, a map of the State showing those counties in which buildings subject to this chapter must comply with the requirements under this section.

(h) If a building, subject to the provisions of this section, has been certified as meeting the GAT 95% in-building coverage requirement, then persons and/or entities involved in the design, construction, ownership and maintenance of the building shall not be liable for any injury, death or damage that solely and directly results from the acts or omissions in its operation of the State of Delaware 800 MHz Emergency Communications system.

(i) Except as otherwise provided in this section, the following shall be an exception to the provisions of this section:

(1) Areas of a building, otherwise subject to the provisions of this Section, where electromagnetic interference (EMI's) will interfere with the efficient operation of equipment sensitive to EMI's; and,

(2) Any agricultural building not intended and not used for human occupancy, including but not limited to, commercial poultry houses, animal barns, etc.

(j) Buildings that would otherwise be subject to the provisions of this section shall be permanently exempt if a building permit is issued by February 28, 2009.

(k) When all towers associated or related to the Next Generation 800 MHz Project have been erected and are operational, subsection (g) of this section shall no longer be applicable and shall expire unless otherwise provided by a subsequent act of the General Assembly.

(l) The 95% GAT 800 MHz Emergency Communications in-building coverage standard shall be the standard applicable to the 800 MHz Emergency Communications System and any minor upgrades to the 800 MHz Emergency Communications System.

(76 Del. Laws, c. 181, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 378, § 1.)

## § 2616. Emergency Communication Systems [Effective Feb. 1, 2027].

(a) "Emergency communications equipment" includes, but is not limited to: repeater systems, 2-way radio communications, signal boosters, bi-directional amplifiers, radiating cable systems or internal antenna or any combination of the foregoing.

(b) "Emergency public safety personnel" includes firefighters, emergency medical services personnel, law-enforcement officers and other personnel routinely called upon to provide emergency assistance to members of the public in a wide variety of emergency situations, including but not limited to, fires, medical emergencies, crimes and terrorist attacks.

(c) "Modified" or "renovated" is defined as meeting 1 of the following:

(1) A structure is 25,000 square feet (2323 $m^2$) or more of gross floor area, and

a. The area modified or renovated is 40% or more of the total building floor area, or

b. The area modified or renovated includes structural modifications, changes in building materials, or the installation of assemblies or systems that are reasonably expected to attenuate radio frequency (RF) signal propagation, including low-emissivity glass, reinforced concrete, metalized insulation, or similar materials.

(2) A structure of less than 25,000 square feet (2,323 $m^2$ ) is modified or renovated to a gross floor area of 25,000 square feet (2,323 $m^2$ ) or more.

(d) "Newly constructed buildings" are defined as any structure of 25,000 square feet or more for which a building permit is issued commencing February 24, 2008. New construction shall not be construed as a renovation or modification of a building, or an expansion or addition to a building which is contiguous to an existing building for which a permanent certificate of occupancy was in effect by February 24, 2008. A structure shall be considered new construction even if it is physically connected to an existing structure exempt from the provisions of this section if it is not contiguous to the structure. "Contiguous structures" shall mean at least 2 structures that share a common wall or floor.

(e) The zoning ordinance and regulations adopted pursuant to this section shall provide that newly constructed buildings of 25,000 square feet of gross floor area or more and any modified or renovated portion of a building shall be designed, constructed and/or equipped so that they meet the GAT (grid acceptance test) at 95% compliance for 800 MHz public safety in-building communications coverage. The in-building coverage required under this section may occur naturally or may require in-building "emergency communications equipment" as defined in subsection (a) of this section.

(f) No issuing agency shall award a permanent certificate of occupancy unless a building affected under this section meets the GAT 95% coverage requirement. An issuing agency may issue a temporary certificate of occupancy for a period of 3 months if a reasonable effort has been made to meet the requirements under this section prior to the issuance of the temporary certificate of occupancy.

(g) The Delaware Department of Safety and Homeland Security (DSHS), or its designee, shall develop and promulgate rules and regulations for the implementation of the provisions in this section.

(h) The rules and regulations promulgated by the DSHS shall not require any building to be certified for 95% in-building coverage until all 800 MHz communications towers within a county, under the Next Generation 800 MHz Project in effect at the time this section is enacted, are fully operational. If a building otherwise subject to the provisions of this section is temporarily exempt from certification under this section due to unfinished towers in a county, the design and construction of a building shall incorporate the means to later install any equipment necessary to meet the 95% GAT in-building coverage requirement. A building temporarily exempted under this subsection shall be certified within 6 months after all Next Generation 800 MHz communication towers are fully operational within a county.

(i) If a building, subject to the provisions of this section, has been certified as meeting the GAT 95% in-building coverage requirement, then persons and/or entities involved in the design, construction, ownership and maintenance of the building shall not be liable for any injury, death or damage that solely and directly results from the acts or omissions in its operation of the State of Delaware 800 MHz Emergency Communications system.

(j) Except as otherwise provided in this section, the following shall be an exception to the provisions of this section:

(1) Areas of a building, otherwise subject to the provisions of this Section, where electromagnetic interference (EMI's) will interfere with the efficient operation of equipment sensitive to EMI's; and,

(2) Any agricultural building not intended and not used for human occupancy, including but not limited to, commercial poultry houses, animal barns, etc.

(k) Buildings that would otherwise be subject to the provisions of this section shall be permanently exempt if a building permit is issued by February 28, 2009.

*(l)* When all towers associated or related to the Next Generation 800 MHz Project have been erected and are operational, subsection (h) of this section shall no longer be applicable and shall expire unless otherwise provided by a subsequent act of the General Assembly.

(m) The 95% GAT 800 MHz Emergency Communications in-building coverage standard shall be the standard applicable to the 800 MHz Emergency Communications System and any minor upgrades to the 800 MHz Emergency Communications System.

(76 Del. Laws, c. 181, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 378, § 1; 85 Del. Laws, c. 296, § 1.)

## Subchapter II

## The Quality of Life Act

### § 2651. Short title; intent and purpose.

(a) This subchapter shall be known and may be cited as the "Quality of Life Act of 1988." It is the purpose of this subchapter to utilize and strengthen the existing role, processes and powers of County Councils in the establishment and implementation of comprehensive planning programs to guide and control future development. It is the intent of this subchapter to encourage the most appropriate use of

land, water and resources consistent with the public interest and to deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of County Council can preserve, promote and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention and general welfare; facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing and other requirements and services; and conserve, develop, utilize and protect natural resources within their jurisdictions.

(b) It is also the intent of this subchapter to encourage and assure cooperation between and among municipalities, counties and the State and to encourage and assure coordination of planning and development activities of units of County Council, municipalities, regional agencies and state government in accord with applicable provisions of law. A growth management plan or policy plan that meets the standards and requirements of this subchapter shall be an acceptable comprehensive plan. The land use map or map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with county land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(66 Del. Laws, c. 207, § 1; 71 Del. Laws, c. 401, § 15.)

## § 2652. Definitions.

For the purposes of this subchapter:

(1) “Area” or “area of jurisdiction” means the total area qualifying under the provisions of this subchapter, being all unincorporated lands within a county.

(2) “Comprehensive plan” or “comprehensive development plan” shall mean, from and after the respective dates by which the counties must be in compliance with this subchapter, a plan that meets the requirements of this subchapter and that is reviewed and certified in accordance with § 9103 of Title 29. Wherever in this subchapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive plan. Whenever in this subchapter land use orders, permits or zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean only that such orders, permits and changes must be in conformity with the map or map series of the comprehensive plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.

(3) “Coordination” as used in this chapter means, in general terms, to act jointly, concurrently, and/or harmoniously toward a common end or purpose.

(4) “County” means New Castle.

(5) “Developer” means any person, including a governmental agency, undertaking any development as defined in this subchapter.

(6) “Development” means any construction or reconstruction of any new or existing commercial or residential building(s) or structure(s) upon lands which are not owned by the State or its agencies or its political subdivisions, or are not within the jurisdictional control of the State or its agencies or its political subdivisions.

(7) “Development order” means any order granting, denying or granting with conditions an application for a development permit.

(8) “Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certificate of occupancy, special exception, variance or any other official action of local government having the effect of permitting the development of land.

(9) “Governing body” means the chief governing body of County Council, however designated, or the combination of such bodies where joint utilization of the provision of this subchapter is accomplished as provided herein.

(10) “Governmental agency” means:

a. The United States or any department, commission, agency or other instrumentality thereof.

b. This State or any department, commission, agency or other instrumentality thereof.

c. Any local government, as defined in this section, or any department, commission, agency or other instrumentality thereof.

d. Any school board or other special district, authority or governmental entity.

(11) “Land” means the earth, water and air, above, below or on the surface, and includes any improvements or structures customarily regarded as land.

(12) “Land development regulation commission” means a commission designated by a County Council to develop and recommend, to the local governing body, land development regulations which implement the adopted comprehensive plan and to review land development regulations, or amendments thereto, for consistency with the adopted plan and to report to the governing body regarding its findings. The responsibilities of the land development regulation commission may be performed by the local planning agency.

(13) “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any County Council zoning, rezoning, subdivision, building construction or sign regulations or any other regulations controlling the development of land.

(14) “Land use” means the development that has occurred on the land, the development that is proposed by a developer on the land or the use that is permitted or permissible on the land under an adopted comprehensive plan.

(15) “Local government” means any municipality.

(16) “Local planning agency” means the agency designated to prepare the comprehensive plan required by this subchapter.

(17) A “newspaper of general circulation” means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices or a newspaper that is given away primarily to distribute advertising.

(18) “Parcel of land” means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

(19) “Person” means an individual, corporation, governmental agency, statutory trust, business trust, estate/trust, partnership, association, 2 or more persons having a joint or common interest or any other legal entity.

(20) “Public facilities” means major capital improvements over which the County has jurisdiction.

(21) “Public notice” or “due public notice” as used in connection with the phrase “public hearing,” “hearing to be held after due public notice” or “public meeting” means publication of notice of the time, place and purpose of such hearing at least twice in a newspaper of general circulation in the area.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 2, 3; 71 Del. Laws, c. 401, § 15; 73 Del. Laws, c. 329, § 48; 85 Del. Laws, c. 343, § 1.)

## § 2653. Scope of subchapter.

(a) The County shall have power and responsibility:

(1) To plan for their future development and growth.

(2) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(3) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof. In furtherance of the authority to adopt, amend and implement comprehensive plans or elements or portions thereof to guide and control future growth, counties are expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified residential and nonresidential districts, zones or parcels of land to residential and nonresidential districts, zones, parcels or areas designated to receive such development rights; provided that such receiving districts, zones or areas are within the same planning district as defined by the county. Such regulations may provide for the establishment of development right banking. Whenever a county exercises its authority to provide for the transfer of development rights it shall:

a. Comply with all requirements of this subchapter pertaining to the amendment of a comprehensive plan;

b. Provide for the transfer of development rights as an option to the use and development of the subject property according to the otherwise applicable zoning ordinance;

c. Limit designation of receiving areas to locations where the county has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either the existing or planned public facilities which serve the area to accommodate such growth; and

d. Demonstrate that the creation and regulation of both sending and receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plan and statewide planning goals and objectives established pursuant to Chapter 91 of Title 29.

e. Consider appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with other counties or municipalities which would permit the transfer and use of development rights between counties and municipalities.

(4) To establish, support and maintain administrative instruments and procedures to carry out the provisions and purposes of this subchapter.

(b) Each County Council shall prepare a comprehensive plan of the type and in the manner set out in this subchapter or amend its existing comprehensive plan to conform to the requirements of this subchapter.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 4; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 122, §§ 1, 2.)

## § 2654. Areas under this subchapter.

A county shall exercise authority under this subchapter for the total unincorporated area under its jurisdiction.

(66 Del. Laws, c. 207, § 1.)

## § 2655. Local planning agency.

(a) The governing body of each County Council shall designate and by ordinance establish a “local planning agency.” The governing body may designate itself as the local planning agency pursuant to this subsection. The local planning agency shall prepare the comprehensive plan after meetings to be held after due public notice and shall make recommendations regarding the adoption of such plan or element or portion thereof. The agency may be a local planning commission, the Department of Land Use of the County Council or

other instrumentality, including a countywide planning entity established by special act or council of local government officials, provided the composition of the council is fairly representative of all the governing bodies in the County.

(b) The governing body or bodies shall appropriate funds for salaries, fees and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purpose and activities authorized by this subchapter, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(c) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(1) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations regarding the adoption of such plan or element or portion thereof consistent with existing county laws or regulations. During the preparation of the plan, and prior to any recommendation for adoption, the local planning agency shall hold at least 1 public hearing or public meeting on the proposed plan or element or portion thereof. The local planning agency may designate any agency, committee, department or person to prepare, revise, monitor and oversee the effectiveness and status of the comprehensive plan or any element thereof. Prior to adoption of the proposed comprehensive plan, the governing body shall hold at least 1 public hearing, with due public notice, on the proposed plan or element thereof. Final recommendation of the adoption of such plan to the governing body shall be in accordance with existing county procedures, or absent such procedures, shall be the responsibility of the local planning agency.

(2) Review proposed land development regulations, land development codes or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan.

(3) Perform any other functions, duties and responsibilities assigned to it by the governing body or special law.

(66 Del. Laws, c. 207, § 1; 71 Del. Laws, c. 401, §§ 15, 85.)

## § 2656. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15, 2026].

(a) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area.

(b) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(c) A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(1) Principles for construction, extension or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(2) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities and projected revenue sources to fund the facilities.

(3) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(4) To the extent provisions of the capital improvements plan anticipate State financial assistance, involvement or cooperation, such provisions shall be developed in conjunction with the state capital improvement plan and annual capital budget.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications which are consistent with the plan, or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(e) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy as the case may require. Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter.

(f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the implementation of the plan and its elements.

(g) The comprehensive plan shall include:

(1) A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County Council, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved area-wide wastewater treatment Plans.

(4) A conservation element for the conservation, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, wood uplands, habitat areas, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, silvacultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the comprehensive land use plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State’s open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

h. An affordable housing plan that complies with subchapter III of Chapter 92 of Title 29.

(7) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the County, adjacent counties or on the applicable state regulations.

(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and personnel utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations. The economic development element shall be developed in consultation with and reviewed by the Division of Small Business.

(11) An educational element consistent with the plans of the local school districts which guide the construction and allocation of school facilities within the districts, if such plans exist. This element will be developed with input from the local school districts, the Department of Education, and the Office of State Planning and Coordination. The educational element shall include recommendations for promoting coordination between residential development and adequate school capacity and must take into account any adequate public facilities ordinance or other county code provisions related to school capacity.

(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 270, §§ 5-15; 71 Del. Laws, c. 401, § 15; 74 Del. Laws, c. 186, § 3; 78 Del. Laws, c. 92, § 1; 81 Del. Laws, c. 49, § 11; 81 Del. Laws, c. 374, § 40; 83 Del. Laws, c. 434, § 1; 85 Del. Laws, c. 343, § 1.)

## § 2656. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

(a) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area.

(b) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(c) A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(1) Principles for construction, extension or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(2) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities and projected revenue sources to fund the facilities.

(3) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(4) To the extent provisions of the capital improvements plan anticipate State financial assistance, involvement or cooperation, such provisions shall be developed in conjunction with the state capital improvement plan and annual capital budget.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications which are consistent with the plan, or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(e) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy as the case may require. Such

policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter.

(f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the implementation of the plan and its elements.

(g) The comprehensive plan shall include:

(1) a. A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

b. The future land use plan must reflect strategies which consider community resiliency and reduce the vulnerability of property, agriculture, infrastructure, and cultural and natural resources to the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events. The strategies must be informed by the Delaware Climate Action Plan and implementation reports as amended and in consultation with the Office of State Planning and Coordination.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, walking trails, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices and consider alternatives to auto-centric development patterns, including transit services, where applicable for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment and consider the designated evacuation routes as set forth by the appropriate state agencies.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County Council, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved area-wide wastewater treatment Plans.

(4) A conservation element for the conservation, restoration where appropriate, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, forests, uplands, habitat areas, and wildlife corridors, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the comprehensive land use plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State’s open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area. Anticipated growth scenarios must be in conformance with the strategies reflected in the future land use plan and encourage development of new housing growth away from areas vulnerable to inland and coastal flooding.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to ensure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

h. An affordable housing plan that complies with subchapter III of Chapter 92 of Title 29.

(7) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the County, adjacent counties or on the applicable state regulations.

(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and personnel utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations. The economic development element shall be developed in consultation with and reviewed by the Division of Small Business.

(11) An educational element consistent with the plans of the local school districts which guide the construction and allocation of school facilities within the districts, if such plans exist. This element will be developed with input from the local school districts, the Department of Education, and the Office of State Planning and Coordination. The educational element shall include recommendations for promoting coordination between residential development and adequate school capacity and must take into account any adequate public facilities ordinance or other county code provisions related to school capacity.

(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 270, §§ 5-15; 71 Del. Laws, c. 401, § 15; 74 Del. Laws, c. 186, § 3; 78 Del. Laws, c. 92, § 1; 81 Del. Laws, c. 49, § 11; 81 Del. Laws, c. 374, § 40; 83 Del. Laws, c. 434, § 1; 85 Del. Laws, c. 343, § 1; 84 Del. Laws, c. 397, § 1.)

## § 2657. State responsibilities to local planning agencies.

(a) All elements of the comprehensive plan shall be based upon data appropriate to the element involved. State agencies shall provide to each county upon request existing data or information necessary to expedite the development and preparation of the comprehensive plan and elements of this section. Surveys and studies utilized in the preparation of the comprehensive plan shall not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys and supporting documents shall be made available to public inspection, and shall be made available to the public upon payment of reasonable charges for reproduction. The County shall be relieved of any requirement to comply with the data and information requirements of this subchapter when the State is unable to supply the necessary data and information to implement that requirement, except when such data or information is currently available or readily accessible to the County within budgetary limitations.

(b) The State, through the Office of State Planning Coordination, shall provide to the County, for use in the comprehensive planning process, State land use and development goals and policies, state regulatory requirements, estimates of future state financial capabilities,

the State Capital Improvements Budget and Plan, State facility location plans, estimates of existing quantity of natural resources, economic development strategies and any other information which might reasonably influence the county's future land use decisions. The State shall provide the County with long-range plans, performance standards, land development polices, facility siting criteria and infrastructure impact assessment standards (necessary to ensure the availability of public facilities and the adequacy of those facilities), so as to enable the county to prepare the plan elements required by § 2656 of this title and to clearly set forth the criteria the State will use to review such elements. The review by the Cabinet Committee on State Planning Issues shall be pursuant to § 9103 of Title 29. During preparation of the county comprehensive plan, the county and the State shall jointly establish guidelines for the location and arrangement of public facilities, such as public schools, health care facilities, public safety and correctional institutions, libraries and other public buildings. Such guidelines shall be used to coordinate between the various levels of government so as to ensure that public buildings and facilities are located in a manner which are consistent with state and county development goals.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 15, 16; 74 Del. Laws, c. 186, § 4; 78 Del. Laws, c. 92, § 2.)

## § 2658. Evaluation and appraisal of comprehensive plan.

(a) The comprehensive plan or amendments or revisions thereto shall be submitted to the Governor or designee at such time as the plan is made available for public review. The County shall provide sufficient copies for review by the Cabinet Committee on State Planning Issues. Within 30 days of plan submission, the Cabinet Committee on State Planning Issues shall conduct a public meeting, at which time the County shall make a presentation of the plan and its underlying goals and development policies. Following the public meeting the plan shall be subject to the state review and certification process set forth in § 9103 of Title 29.

(b) This State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the County where the County's adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with state development policies, including policies related to affordable housing.

(c) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare a report on the progress of implementing the comprehensive plan, which shall be sent to the Office of State Planning Coordination each year after adoption of the comprehensive plan. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012. The Cabinet Committee shall forward the report to the Office of State Planning Coordination, which will evaluate it in the context of state goals, policies and strategies, and the plans of other jurisdictions. The Office of State Planning Coordination will integrate the information, land use trends, and changing conditions found in the county's report into the annual report of the Cabinet Committee, which is to be prepared as specified in § 9101(d) of Title 29. It is the intent of this subchapter that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster ongoing coordination.

(d) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations or other forms) related to:

(1) The major problems of development, physical deterioration and the location of land uses and the social and economic effects of such uses in the area.

(2) The condition of each element in the comprehensive plan at the time of adoption and at date of report.

(3) The comprehensive plan objectives as compared with actual results at date of report.

(4) The extent to which unanticipated and unforeseen problems and opportunities occurred between date of adoption and date of report.

(e) The report shall include reformulated objectives, policies and standards in the comprehensive plan or elements or portions thereof.

(f) The Cabinet Committee may prescribe a format and guidelines for the preparation of the County's report. Should the Cabinet Committee elect to do so, the Office of State Planning Coordination shall assist the Committee in the development and administration of such guidelines.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 15, 17-19; 73 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 186, §§ 3-6; 78 Del. Laws, c. 92, §§ 3-6; 85 Del. Laws, c. 343, § 1.)

## § 2659. Legal status of comprehensive plan.

(a) After a comprehensive plan or element or portion thereof has been adopted by County Council in conformity with this subchapter, the land use map or map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(b) Nothing in this subchapter shall serve to invalidate any comprehensive plan, land development regulation, land use, development, development order or development permit which presently exists or which hereafter validly comes into existence prior to the date when full compliance with this subchapter is required.

(c) Any application for a development permit filed or submitted prior to adoption or amendment under this subchapter of a comprehensive plan or element thereof shall be processed under the comprehensive plan, ordinances, standards and procedures existing

at the time of such application. All subdivision or land development applications heretofore or hereafter filed or submitted to New Castle County that do not receive final approval from New Castle County government within 5 years from the date of application shall be subject to the environmental standards contained in Chapter 40, Articles 5 and 10, of the New Castle County Code, as may be amended, and the traffic impact standards contained in Chapter 40, Articles 5 and 11, of the New Castle County Code, as may be amended. This section shall not be construed to extend any time limitations pertaining to the expiration of subdivision or land development applications contained in the New Castle County Code.

(d) All development permits and development orders heretofore or hereafter validly issued or approved by County Council and not thereafter limited, rescinded or restricted shall automatically be incorporated into and become part of the present and all future comprehensive plans.

(e) In the event that any comprehensive plan or element required to comply with this subchapter shall be determined as failing to comply herewith, such failure shall not invalidate those elements of the plan which do comply with this subchapter, nor invalidate any previously issued development permit or order that was not specifically and timely challenged in the legal action in which such noncompliance was determined.

(f) The County Council may by ordinance provide for the sunsetting of any subdivision or land development plan approvals heretofore or hereafter approved by County Council. However, no such plans shall be subject to sunsetting within the first 5 years of approval of such plans by County Council or the first 5 years after adoption of the County sunsetting ordinance, whichever is later.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 15; 71 Del. Laws, c. 400, §§ 3, 4; 71 Del. Laws, c. 401, §§ 15, 87; 73 Del. Laws, c. 33, § 1.)

## § 2660. County comprehensive plan.

(a) The County shall submit a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than 5 years after the adoption of the current plan; provided, however, that the County may request an extension of such date by forwarding a written request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision and other land use decisions. Such plan shall be updated every 10 years thereafter.

(b) Once the County Council shall have in place said comprehensive plan, the County shall not be permitted to amend such plan without a simple majority of the entire membership thereof voting to do so.

(c) Within 1 year of the date of adoption of the county plan, the County shall initiate an implementation program regarding subdivision and development controls. The County shall report the status of the implementation program in the monitoring report as required by this subchapter. This report should include progress to date, problems, issues and opportunities.

(d) Subsequent amendments to the county comprehensive plan required by this chapter shall be submitted to the Cabinet Committee on State Planning Issues for review and certification pursuant to § 9103 of Title 29.

(e) Within 12 months of the date of adoption of the county comprehensive plan or revisions thereof, New Castle County shall amend its official zoning map or maps to rezone all lands in accordance with the uses and intensities of uses provided for in the future land use element for the County.

(1) In the event that the County does not complete the rezoning required under this subsection within the required 12-month period, a rezoning application filed by a property owner shall be approved by the County if the requested zoning classification is consistent with the future land use map or map series and applicable implementing provisions of the comprehensive plan, unless the County makes written findings, based on substantial evidence in the record, that 1 or more of the following apply:

a. The requested zoning classification is inconsistent with the future land use map or map series or applicable implementing provisions of the comprehensive plan.

b. The application fails to satisfy applicable procedural or submission requirements.

(2) The County shall determine whether a rezoning application filed by a property owner under paragraph (e)(1) of this section is complete within 21 days of submission. If the County does not issue a written completeness determination within 21 days, the application is deemed complete.

(3) The County shall take final action on the rezoning application within 120 days after the application is determined or deemed complete, unless the applicant agrees in writing to an extension. Final action on any associated site plan is not subject to the 120-day timeline.

(4) If the County denies a rezoning application under this subsection, the denial must be in writing and must identify the specific future land use map designation or statutory standard upon which the denial is based.

(5) If a public hearing was held in connection with adoption of the comprehensive plan or revision of the comprehensive plan, that hearing shall satisfy all hearing and notice requirements otherwise required under this title. This provision does not prevent a local land use agency from adopting hearing and notice requirements.

(66 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 270, §§ 15, 20, 21; 71 Del. Laws, c. 401, § 15; 73 Del. Laws, c. 186, § 2; 74 Del. Laws, c. 186, §§ 3, 7; 78 Del. Laws, c. 92, §§ 7, 8; 78 Del. Laws, c. 129, § 1; 85 Del. Laws, c. 343, § 1.)

## § 2661. Information from state and local agencies and school districts.

(a) All subdivision plans approved by the County Council shall be filed with the Office of the Recorder of Deeds, and with such other state and local agencies as the County may by ordinance require.

(b) As part of its review of a rezoning or subdivision application, the County Council through its designated local planning agency shall request and review information from all state and local agencies and local school districts identified on a list prepared by the County and shall file as part of the record any written information provided by such state and local agencies or local school districts with respect to the rezoning or subdivision application. If the planning agency makes recommendations that are in conflict with the information supplied by state and local agencies or local school districts, it must explain its reasons for doing so in writing.

(c) (1) This section shall apply only to residential development. Prior to recording a major record subdivision plan, as defined by New Castle County, the applicant shall provide certification to the Department of Land Use from the Secretary of the Department of Education after consultation with the superintendent of the appropriate individual school district that the school district has adequate capacity for the proposed development. The Secretary shall respond to any request for certification or Voluntary School Assessments within 60 days' receipt of a completed request for such certification. That certification shall include the following information:

a. Existing classrooms and service levels based upon the Delaware Department of Education Delaware School Construction Manual, September 19, 1996, as may be amended or supplemented from time to time, or based upon other standards accepted as accurate by the Secretary of the Department of Education; and

b. Capacity calculations, which shall include the current student population, increased demand resulting from prior certifications from the Department of Education, and the increased demand that will result from the proposed development. The Department of Land Use shall within 20 days provide the Department of Education with all necessary information regarding the number and type of dwelling units proposed and other information which the Secretary may request.

This subsection shall apply to all new residential major subdivision plans submitted pursuant to the New Castle County Unified Development Code adopted December 31, 1997, as may be amended.

(2) Notwithstanding the foregoing provisions of this subsection, no certificate of adequate school capacity shall be required where either: (i) the residential development is restricted by recorded covenants to provide housing or shelter predominantly for individuals 55 years of age or older pursuant to the Federal Fair Housing Act [42 U.S.C. § 3601 et seq.]; (ii) the residential development is for low income housing, which, for purposes of this section, shall be defined to mean any housing financed by a loan or mortgage that is insured or held by the Secretary of HUD or the Delaware State Housing Authority or which is developed by a nonprofit corporation certified under § 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. § 501(c)(3)]; or (iii) the applicant has pledged, in a writing recorded and running with the subject property, to pay a Voluntary School Assessment in an amount determined pursuant to § 103(c) of Title 14, for each lot for which the applicant would otherwise be required to obtain a certificate.

(3) Voluntary School Assessments will be calculated on a per unit basis as of the time of the issuance of the first building permit, and the assessment shall remain constant throughout the development of the subdivision (and shall not be increased for any reason, including but not limited to any resubdivision); provided, however, that after 5 years the Voluntary School Assessment amount may be recalculated. Any Voluntary School Assessments paid under this subsection shall be paid to the Department of Education at the time that a certificate of occupancy is obtained for each unit, and shall be deposited by the Department into an interest-bearing account as set forth below. With the approval of the Secretary, after consultation with the superintendent of the affected school district, an applicant may receive a credit against voluntary assessments to be paid in an amount equal to the fair market value of any lands or properties set aside by the applicant and deeded to the school district for school uses. Any such lands shall not be used for nonschool purposes, other than as parkland or open space. All voluntary assessments paid shall be held in an interest-bearing account by the State for the school district in which the applicant's project is located until such time as the school district engages in construction activities that increase school capacity, at which time such assessments shall be released to the school district by the State in the amount of the Voluntary School Assessments paid into an interest-bearing account for such district. It is the intent of this section that lands or properties required to be conveyed by the applicant to New Castle County as a condition to subdivision approval shall not be eligible to be used for purposes of obtaining a credit against the voluntary school assessment notwithstanding the fact that such lands or properties may subsequently be conveyed by the county to a school district.

(4) To the extent New Castle County has adopted (or in the future attempts to adopt) any regulations or ordinances linking or tying residential development to school capacity, or otherwise restricting residential development in the absence of school capacity, such regulations and ordinances are hereby preempted and of no force and effect.

(66 Del. Laws, Sp. Sess., c. 198, § 1; 70 Del. Laws, c. 270, § 15; 71 Del. Laws, c. 401, § 15; 72 Del. Laws, c. 237, § 1; 73 Del. Laws, c. 350, § 108; 74 Del. Laws, c. 308, § 151(a), (b).)

## § 2662. Highway capacity; traffic impact study requirements.

(a) Subject to subsection (b) of this section, the County Council shall not approve any proposed change in the zoning classification for land (i.e., any "rezoning request"), a new roadway access associated with site development, or for any other purpose without first complying with either the procedures contained in paragraphs (a)(1)a. through (a)(1)d. of this section or the procedures contained in paragraphs (a)(2)a. through (a)(2)c. of this section:

(1) a. As soon as possible, but in any event no later than June 30, 2027, the County Council, through its designated planning agency, shall establish an agreement with the Department of Transportation to provide a procedure for analysis by the Department of Transportation of the effects on traffic of each rezoning application.

b. Each agreement under paragraph (a)(1)a. of this section shall be approved by a resolution or ordinance, consistent with County procedures, and shall establish traffic level of service suitable to the County and the Department of Transportation.

c. The purpose of the agreement under paragraph (a)(1)a. of this section shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the County and to allow for analysis to assess whether the County's approval of a change in the zoning classifications for land, a new roadway access associated with site development, or for any other purpose will create a new financial or infrastructure obligation to this State that is not consistent with the current edition of the Strategies for State Policies and Spending.

d. The agreement under paragraph (a)(1)a. of this section shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought.

(2) a. The County Council, through its local planning agency, shall establish an agreement with the Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and 2104 of Title 2.

b. The local planning agency shall hold at least 1 public hearing on the proposed agreement created under paragraph (a)(2)a. of this section and public comment must be permitted at the public hearing.

c. The local planning agency shall provide due public notice of the public hearing required by paragraph (a)(2)b. of this section at least twice, the first notice at least 60 days prior to the public hearing and the second notice at least 30 days prior to the public hearing.

(b) If the County Council enacts an ordinance, or a county agency adopts a regulation, that imposes a traffic impact study for a proposed change in the zoning classification for land, a new roadway access associated with site development, or for any other purpose, the ordinance or regulation must at least provide the following:

(1) That the threshold for determining if a traffic impact study is required must be based on peak hour trips, not vehicle trips per day, and the threshold must at least meet the following:

a. For a residential development, 500 peak-hour trips.

b. For all other development, 500 peak-hour trips, excluding pass-by trips.

(2) That the traffic impact study is not required in a "Downtown Development District" or "Downtown Development Corridor," as defined under § 1902 of Title 22.

(66 Del. Laws, c. 217, § 1; 70 Del. Laws, c. 270, § 15; 71 Del. Laws, c. 401, § 15; 80 Del. Laws, c. 224, § 2; 85 Del. Laws, c. 344, § 2.)

## § 2663. Residential density requirements.

(a) For purposes of this section, "growth area" means an area designated within a county comprehensive plan as a growth area and also consistent with areas identified by the Strategies for State Policies and Spending for growth as Investment Levels 1 and 2, or any successor classifications adopted by this State.

(b) Notwithstanding § 2601(a) of this title, this subchapter, or any provision of this Code to the contrary, and subject to subsection (c) of this section, a county government shall adopt zoning ordinances and land development regulations within a growth area that do all of the following:

(1) Permit a variety of housing types, including townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential developments.

(2) Establish bulk, dimensional, and design standards that reasonably accommodate the housing types permitted under paragraph (b)(1) of this section at densities established in paragraph (c)(2) of this section.

(3) Encourage development patterns that reduce vehicular trips, increase pedestrian connectivity, support transit-oriented development, and promote mixed-use development consistent with guidance issued by the Department of Transportation.

(c) By June 1, 2027, by regulation, or in the county's comprehensive plan if due that same year, and thereafter at least once every 10 years in the county's comprehensive plan, a county government shall adopt residential growth area density requirements to do all of the following:

(1) Based on the guidance under subsection (e) of this section, develop and periodically update residential density requirements applicable to growth areas throughout the county, beginning with a minimum density threshold of 4 units per acre for single family homes and increasing minimum density thresholds for other housing types.

(2) Require residential development meet density requirements while recognizing that varying development densities may be appropriate within different portions of a designated growth area of the county.

(3) Encourage compact, infrastructure-efficient, and housing-supportive development patterns within growth areas of the county.

(d) Each time the comprehensive plan adopted under subsection (c) of this section is approved, the county government shall issue updated regulations or ordinances effectuating the residential growth area density requirements, which must be developed in consultation with the following, or a designee of the following:

(1) The Director of the State Housing Authority.

(2) The Secretary of the Department of Transportation.

(3) The Director of the Office of State Planning Coordination.

(4) The President of the Delaware League of Local Governments.

(5) The Governor.

(e) The Delaware State Housing Authority shall develop guidance for residential density requirements applicable to growth areas throughout this State starting with a minimum density threshold of 4 units per acre for single family homes and increasing minimum density thresholds for other housing types. The guidance must include all of the following:

(1) Recommendations for permitting a variety of housing types, including townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential development.

(2) Recommendations for establishing bulk, dimensional, and design standards that reasonably accommodate the housing types permitted under paragraph (e)(1) of this section.

(3) Recommendations, developed in consultation with the Department of Transportation, for development patterns that reduce vehicular trips, increase pedestrian connectivity, support transit-oriented development, and promote mixed-use development.

(85 Del. Laws, c. 344, § 3.)

## Subchapter III

## Citizens Bill of Rights Act

### § 2699. Court review of land use actions; limitations on liability of individuals and associations.

Any individual or association of individuals that challenges or opposes a zoning, subdivision or other land use application, and seeks judicial review of a decision concerning the application in a manner prescribed by statute, shall not be liable to any other party to the judicial review for seeking such a review, except for such costs as are expressly provided for by the rules of court.

(66 Del. Laws, Sp. Sess., c. 200, § 1.)

# Part II
# New Castle County

## Chapter 27
## School Crossing Guards [Repealed].

### §§ 2701-2704. Establishment of school crossing guard unit for New Castle County; duties; compensation; uniform; coordination with school boards; levy and collection of tax [Repealed].

Repealed by 71 Del. Laws, c. 401, § 88, effective July 13, 1998.

# Part II
# New Castle County
## Chapter 28
## Water Supply

### § 2801. Definitions.

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

(1) "County" means New Castle County.

(2) "Water supply system" means the plants, structures and other real and personal property, including specifically dams, wells and pipelines, acquired, constructed or operated, or to be acquired, constructed or operated for the collection, storage and wholesale distribution of water for ultimate domestic, commercial and industrial use.

(3) "Water treatment and distribution system" means the plants, structures and other real and personal property acquired, constructed or to be acquired, constructed or operated for the treatment and retail distribution of water for domestic, commercial and industrial use.

(4) "Excess water" means the portion of the flow of the water in White Clay Creek which exceeds the low flow of record thereof which shall be determined by the County Council by standard accepted hydrological methods.

(9 Del. C. 1953, § 2801; 54 Del. Laws, c. 233; 71 Del. Laws, c. 401, § 15.)

### § 2802. Powers of County.

In addition to the other powers which it has, the County may, under this chapter:

(1) Plan, construct, acquire by gift, or purchase any water supply system in the White Clay Creek Watershed, and acquire by gift, purchase or the exercise of eminent domain lands or rights in land in connection therewith;

(2) Plan and construct White Clay Creek Water Supply System, including a dam, reservoir and other structures on White Clay Creek above Newark extending into the Commonwealth of Pennsylvania and in connection therewith to acquire by gift or purchase (for money or other considerations), or a combination thereof in the Commonwealth of Pennsylvania and by gift, purchase (for money or other considerations), eminent domain, or a combination thereof in New Castle County, lands or rights in lands;

(3) Plan for and relocate or pay for the planning and relocation of existing roads, bridges, power lines, water mains, telephone lines, sewers and other utilities located within the aforementioned water supply system site which relocation is required by the exercise of the powers in paragraphs (1) and (2) of this section;

(4) Protect, relocate or pay for the protection or relocation of privately owned facilities such as dwellings, buildings, churches, cemeteries, private drives and private water systems and appurtenances located within or immediately adjacent to the site of such water supply system as part of the cost of acquiring land or rights in land whenever the County Council shall determine that such protection or relocation shall be economically justified or in the case of churches, historical buildings, and cemeteries, such relocation shall be in the public interest;

(5) Operate and maintain such water supply system and furnish the services and facilities available therefrom;

(6) Enter into and perform contracts deemed appropriate by the County Council with any public utility company or with any incorporated city or town operating a water treatment and distribution system providing for the use of water from such County water supply system or systems and for the payment to the County of fees for the use or for the availability of use of such water;

(7) Issue bonds to finance in whole or in part the cost of planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any such water supply system; and accept from the State, or the Commonwealth of Pennsylvania, the Delaware River Basin Commission, the federal government or any authorized agency of any of the above, any incorporated town or other local governmental agency or from persons, firms, or corporations, grants, loans or contributions for the planning, construction, acquisition, reconstruction, improvement or extension of any such water supply system and to enter into agreements with such parties with respect to such grants, loans or contributions;

(8) Make payments of taxes or in lieu of taxes levied by townships, counties, or other governmental bodies upon land and improvements owned in the Commonwealth of Pennsylvania, and enter into agreements with respect to said taxes or payments;

(9) Control and distribute within New Castle County the excess water collected or stored in any reservoir on White Clay Creek forming a part of any such County water supply system by releasing it into any stream, river, pond, lake, or water treatment and distribution system and prohibit or permit the use of excess water for such uses, in such amounts, and subject to such rules, regulations and fees as the County Council may from time to time determine; provided however, that the County at no time shall prevent the free flow in White Clay Creek of any and all water which is not excess water unless the right to appropriate, divert or use such nonexcess water shall have been previously legally acquired from the parties entitled thereto by the County. The fees may be based upon such use or uses or upon any combination thereof and the County Council may enter into contracts with municipalities, public water distributing utilities and industries with respect to said rights and fees;

(10) Sell any land acquired under this chapter which the County Council shall at any time determine to be surplus to its needs. Such sale shall be in accordance with § 1521 of this title whether said land is located in this State or in the Commonwealth of Pennsylvania,

except that land acquired for the relocation of utilities, facilities or improvements may be conveyed upon such terms, in such way and manner and subject to such conditions and restrictions, if any, as the County may deem fit, to the appropriate governmental agency or persons, firms or corporations;

(11) Exercise full control of and make rules and regulations for access to and use of lands included as part of any water supply system.

(9 Del. C. 1953, § 2802; 54 Del. Laws, c. 233; 71 Del. Laws, c. 401, § 15.)

## § 2803. Costs; authorization, amount, terms, sale, interest rate, etc., of bonds.

(a) The planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any water supply system to be used in connection with the White Clay Creek Watershed, including costs of land, rights in lands and relocation of utilities and other improvements may be authorized under this chapter and bonds to provide funds for such purposes, may be authorized to be issued under this chapter by resolution of the County Council.

(b) The County Council in determining the costs of acquiring or constructing any such water supply system may include all costs and estimated costs of the issuance of the bonds, all planning, engineering, inspection, fiscal and legal expenses, and interest or estimated interest upon the bonds or other money borrowed pursuant to this chapter during the planning and construction period and for 6 months after completion.

(c) The bonds shall bear interest at such rates, may be in 1 or more series or issues, may bear such dates, may mature at such time, not exceeding 40 years from their respective dates of issue, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution or subsequent resolutions provide. Debt incurred by the County Council pursuant to this chapter may be represented by uncertificated obligations of the County Council which may be authorized in accordance with the same procedures applicable to bonds which are permitted to be issued under this chapter, and the County Council by resolution may determine, or it may delegate authority to the County Executive to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(d) The bonds shall be sold at public sale upon sealed proposals after at least 10 days' notice published at least once in a newspaper published in the City of Wilmington at such price and upon such terms as the County Council may prescribe; provided, that the County Council may authorize the County Executive to sell such bonds at public or private sale upon such terms, conditions and regulations as it may prescribe.

(e) Pending the preparation of the definitive bonds, interim receipts or certificates in such forms and with such provisions as the County Council determines may be issued to the purchasers of bonds sold pursuant to this chapter.

(f) The rate of interest may be determined in advance of sale or the bonds may be offered for sale at a rate of interest to be fixed by the successful bidder for such bonds.

(g) The County Council may advance funds for planning, engineering, acquisition of land, etc., from other funds of the County to be reimbursed from time to time by sale of water supply bonds.

(9 Del. C. 1953, § 2803; 54 Del. Laws, c. 233; 64 Del. Laws, c. 318, §§ 12, 13; 71 Del. Laws, c. 401, § 15.)

## § 2804. Authorized signatures on bonds, validity of issuance.

(a) Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the County.

(b) The validity of the bonds shall not be dependent on, nor affected by the validity or regularity of any proceedings relating to the planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of the water supply system for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(9 Del. C. 1953, § 2804; 54 Del. Laws, c. 233.)

## § 2805. Payment of bonds; faith and credit of County; tax levy.

The faith and credit of the County are pledged to the payment of any bonds issued under this chapter. The County Council shall, annually, appropriate to the payment of such bonds and the interest thereon the amounts required to pay such bonds and interest as the same becomes due and payable. Notwithstanding the provisions of any other law, the County Council may levy an ad valorem tax, without limitation as to the rate or amount upon all property taxable by the County to raise the moneys necessary to meet any such appropriation.

(9 Del. C. 1953, § 2805; 54 Del. Laws, c. 233; 71 Del. Laws, c. 401, § 15.)

## § 2806. Fees; contracts for use of water.

(a) The County Council may establish and from time to time revise fees. The fees may be based upon the right to use a specified amount of water, or upon its actual use or upon any combination thereof. It shall be the policy in determining fees to be charged or provided for in

contracts entered into under this chapter to collect sufficient moneys to pay the principal and interest of all bonds issued hereunder plus the cost of operation, maintenance and administration of the water supply system. Upon retirement of all bonds the rates shall be revised consistent with the reduced costs. The fees charged shall be fees which shall be determined by the County Council to be equitable, giving full consideration to values, such as lands or other rights granted to the County.

(b) The County Council may enter into long-term contracts for the rights to use such water. Such contracts may provide equitable means for the voluntary sale of such rights and, in the case of rights for which the contractor does not have plant facilities to use, their involuntary sale upon order of the County Council to release such rights to parties prepared to use them.

(c) The County Council may, in contracting for such rights, establish emergency priorities in the use of such water.

(d) The County Council may establish discounts for prompt payment of fees and penalties not to exceed 1% a month for late payment. The County Council shall provide that failure to pay such fees within a period not to exceed 1 year from the due date shall result in cancellation of the contract. Unpaid fees shall constitute liens against the property of the contractor as of the date of cancellation of the contract. The County Council may collect such fees by civil suit on the contract or by sale of the property for the lien.

(e) The fees established under this chapter shall not be subject to approval of the Public Service Commission.

(9 Del. C. 1953, § 2806; 54 Del. Laws, c. 233; 71 Del. Laws, c. 401, § 15.)

## § 2807. Condemnation under right of eminent domain.

(a) The County Council may acquire real and personal property or rights therein by condemnation as provided in Chapter 61 of Title 10, for property located in the County, in the exercise of the powers provided under this chapter.

(b) The County Council may contract with the Delaware River Basin Commission, agencies of the Commonwealth of Pennsylvania and local Pennsylvania governmental units having such powers, to acquire by condemnation real and personal properties or rights therein as may be required under this chapter in the Commonwealth of Pennsylvania for the purposes of this chapter, and may compensate the Commission, Commonwealth, or local unit for the cost of acquisition.

(9 Del. C. 1953, § 2807; 54 Del. Laws, c. 233; 71 Del. Laws, c. 401, § 15.)

## § 2808. Title of property.

(a) Property in this State acquired by the County for the purpose of this chapter shall be held in the name of the "State of Delaware for the use of New Castle County."

(b) Property outside of this State acquired by the County for the purposes of this chapter shall be held in the name of "The County Council of New Castle County, Delaware."

(9 Del. C. 1953, § 2808; 54 Del. Laws, c. 233; 71 Del. Laws, c. 401, § 15.)

## § 2809. Penalties; enforcement.

(a) Any violation of the rules and regulations established under this chapter shall be punished by a fine of not less than $25 nor more than $100. Each day of a continuing violation shall be a separate offense.

(b) In addition to the above remedy, the County may apply to the Court of Chancery for injunctive relief to prevent continuation of such violations.

(c) In the case of violation of contracts or agreements under this chapter, the County may sue for civil damages and also apply for temporary or permanent injunctions to halt violations.

(9 Del. C. 1953, § 2809; 54 Del. Laws, c. 233.)

## § 2810. Authority of Delaware River Basin Commission.

Nothing in this chapter shall be construed to reduce the power and authority of the Delaware River Basin Commission.

(9 Del. C. 1953, § 2811; 54 Del. Laws, c. 233.)

# Part II
# New Castle County
## Chapter 29
## Property Maintenance

### § 2901. Definitions.

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

(1) "Administrative tribunal" shall mean a show cause hearing before the Code Official for New Castle County.

(2) "Building" shall mean 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) "County Council" shall mean the County Council for New Castle County.

(4) "Department of Land Use" shall mean the New Castle County Department of Land Use.

(5) "Person responsible" shall mean the owner and any other person or persons who have control over the property or are responsible for the violation.

(6) "Property" shall mean a lot, plot or parcel of land, including any structures thereon.

(7) "Structure" shall mean a manmade object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

(75 Del. Laws, c. 212, § 6.)

### § 2902. Promulgation of property maintenance code.

The County Council, in order to provide for the health, safety and welfare of the citizens of New Castle County, shall promulgate rules and regulations to be known as the New Castle 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.

(75 Del. Laws, c. 212, § 6.)

### § 2903. Department of Land Use; administration and enforcement.

The Department of Land Use shall have the power and authority to administer and enforce all provisions of the New Castle County Property Maintenance Code as promulgated by the County Council except as otherwise provided for by this chapter or by rule or regulation adopted by County Council.

(75 Del. Laws, c. 212, § 6.)

### § 2904. 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.

(9 Del. C. 1953, § 2901; 55 Del. Laws, c. 279; 71 Del. Laws, c. 401, § 15; 75 Del. Laws, c. 212, § 6.)

### § 2905. Fees.

The County Council may adopt rules and regulations providing for the charge of reasonable fees for the administration and enforcement of the New Castle County Property Maintenance Code, including fees for the inspection and reinspection of properties for which a notice of violation has been duly issued.

(75 Del. Laws, c. 212, § 6.)

### § 2906. Violation of regulations or chapter; notices and orders.

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

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

(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 Land Use determines that such violation cannot be cured within such time and clearly delineates additional time for compliance.

(75 Del. Laws, c. 212, § 6.)

## § 2907. Abatement; creation of tax lien.

(a) If after due notice, either actual or constructive, is given by the Department of Land Use 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 Land Use may cause such violation to be removed, corrected, abated or otherwise made safe and sanitary. The Department of Land Use 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 New Castle Property Maintenance Code or other provisions of the New Castle 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 Land Use 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 Land Use, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes, and paid to New Castle County, when collected.

(c) Any unpaid fine or civil penalty associated with violation of the New Castle Property Maintenance Code or any other provision of the New Castle 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 New Castle County, when collected.

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

(75 Del. Laws, c. 212, § 6; 81 Del. Laws, c. 162, § 1.)

## § 2908. 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 County Council, or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Department of Land Use, or in violation of an order of the Department of Land Use, shall be fined in accordance with a schedule of fees and penalties to be established by the County Council. 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.

(9 Del. C. 1953, § 2902; 55 Del. Laws, c. 279; 71 Del. Laws, c. 401, § 15; 75 Del. Laws, c. 212, § 6.)

## § 2909. Additional remedies.

The imposition of the penalties or enforcement prescribed in this chapter or by the rules or requirements as promulgated by the county council 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.

(75 Del. Laws, c. 212, § 6.)

## § 2910. Exceptions.

This chapter does not apply to a property, building, or structure located within a municipality unless New Castle County has any responsibility for the local service function under § 1102 of this title.

(75 Del. Laws, c. 212, § 6; 83 Del. Laws, c. 7, § 8.)

# Part II
# New Castle County

## Chapter 30
## Subdivision and Land Development

### § 3001. Definitions.

As used in this chapter, unless otherwise expressly stated:

(1) "Commission" means Regional Planning Commission of New Castle County in § 3003 of this title but shall mean the Department of Land Use in all other sections.

(2) "County" means New Castle County.

(3) "District" means Regional Planning District of New Castle County, which comprises all that portion of the County not included within the corporate limits of any city or town, unless any territory within such corporate limits is included upon request made by the governing body or authority of any such city or town.

(4) "Plan" means the map, plat, or other document verbally or graphically illustrating or describing a plan of subdivision or land development.

(5) "Recorder of Deeds" means Recorder of Deeds in and for New Castle County.

(6) "Regulations" means land subdivision regulations.

(7) "Structure" means any man-made object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

(8) "Subdivide" means the subdivision of land as defined in paragraph (10) of this section, or any act directed toward the present or future subdivision of land.

(9) "Subdivider" means any person, or agent thereof, who undertakes the subdivision of land; or any successor to the rights of said person in said land.

(10) "Subdivision" means:

a. The division or redivision of a lot, tract, or parcel of land, by any means, including by means of a plan or plat or a description by metes and bounds, into 2 or more lots, tracts, parcels or other divisions of land, for the purpose, whether immediate or future, of lease, of the transfer of ownership or of building development, exempting, however, the division of land for agricultural purposes into parcels of more than 10 acres not involving any new streets or easements of access, divisions of property by testamentary or intestate provisions, or divisions of property upon court order;

b. The division or allocation of land for the opening, widening or extension of any street or streets, or the division or allocation of land as open spaces for common use by owners, occupants or leaseholders, or as easements for the extension and maintenance of public sewer, water supply, storm drainage or other public facilities.

(9 Del. C. 1953, § 3001; 55 Del. Laws, c. 49; 60 Del. Laws, c. 468, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 89.)

### § 3002. Power to regulate.

In order to provide for the orderly growth and development of the County, to promote the health, safety, prosperity, and the general welfare of the present and future inhabitants of the County, to insure the conservation of property values and natural resources, including the protection of the County's agricultural lands, water resources, and industrial potential, and to afford adequate provisions for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Commission may regulate the subdivision of all land in the County not within the corporate limits of any city or town.

(9 Del. C. 1953, § 3002; 55 Del. Laws, c. 49.)

### § 3003. Land subdivision regulations.

In order to carry out the provisions of this chapter, the Commission shall adopt and administer regulations in accordance with the following procedures:

(1) Within 1 year from May 4, 1965, the Commission shall propose regulations pursuant to the purposes specified in this chapter, and shall hold at least 1 public meeting, notice of which shall have been given by publication at least 15 days before said meeting in a newspaper of general circulation in the County. Copies of the proposed regulations shall be available to the public without charge at a place or places stated in said notice. Within 120 days after said meeting, the Commission may adopt the regulations as proposed or may make any amendment, change or addition thereto, except that prior to the adoption thereof the same procedures shall be followed;

(2) Prior to the adoption by the Commission of any subsequent amendment, change or addition to said regulations, the same procedures shall be followed;

(3) No regulation adopted by the Commission shall become effective unless and until approved by the County Council.

(9 Del. C. 1953, § 3003; 55 Del. Laws, c. 49; 71 Del. Laws, c. 401, § 15.)

## § 3004. Content of land subdivision regulations.

Any regulations adopted and approved under this chapter shall include, but not be limited to, the following provisions:

(1) Varying procedures for insuring the processing of land subdivision plans, within a reasonable period of time, relative to the number of lots or parcels and the extent of improvements required;

(2) Procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets, or rights-of-way, bordering or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient and suitable monuments shall be required, that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided, and that adequate provision for water supply is made;

(3) Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development.

(9 Del. C. 1953, § 3004; 55 Del. Laws, c. 49.)

## § 3005. Issuance of building and occupancy permits [Repealed].

Repealed by 75 Del. Laws, c. 85, § 4, effective June 30, 2005.

## § 3006. Selling before approval; penalty; civil suits.

(a) No street, sanitary sewer, storm sewer, water main, or other improvements shall be constructed, opened, or dedicated for public use or for the common use of occupants of buildings abutting thereon, and no part of any land which has been subdivided after the adoption of regulations under this chapter, shall be sold, transferred or conveyed, except pursuant to an approval received for the land subdivision in accordance with the regulations adopted under this chapter.

(b) Whoever violates subsection (a) of this section shall upon conviction thereof be fined not more than $200 or imprisoned not more than 30 days, or both. Each lot or parcel so transferred or sold and each improvement so constructed, opened or dedicated shall be deemed a separate violation, and each and every day during which such violation continues shall be deemed a separate violation. The Superior Court shall have exclusive jurisdiction of offenses under this section.

(c) The County Council, or any owner of real estate affected by such violation, may, in addition to utilizing other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or otherwise correct such violation.

(9 Del. C. 1953, § 3006; 55 Del. Laws, c. 49; 71 Del. Laws, c. 401, § 15.)

## § 3007. Recording unapproved plans; penalty.

(a) The Recorder of Deeds within the County shall not receive for filing any plan of land showing an arrangement of lots or parcels of lands, streets, easements or rights-of-way unless and until said plan shall have been submitted to, and approved by, the Commission and the County Council pursuant to the regulations adopted under this chapter, and until each such approval shall have been endorsed in writing on said plan by the Chairperson or the Executive Director of the Commission and the County Council by the President.

(b) Any plan received by the Recorder of Deeds for filing or recording without the approval of the Commission and the County Council endorsed thereon, shall be null and void and without legal effect and shall upon application of the Commission or the County Council, to the Superior Court, be expunged from the records of the Recorder of Deeds.

(c) Whoever causes any plan to be filed or recorded contrary to the provisions of this chapter shall be fined not less than $100 and not more than $500. The Superior Court shall have exclusive original jurisdiction of offenses under this section.

(9 Del. C. 1953, § 3007; 55 Del. Laws, c. 49; 60 Del. Laws, c. 468, § 4; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 15.)

## § 3008. Improvements private until dedicated.

The approval of a plan by the Commission and by the County Council shall, when recorded, be deemed and taken as acceptance of the intended dedication of the streets, grounds or other improvements appearing thereon to the public use by appropriate governmental body or agency. The approval of a plan shall not impose any duty or obligation upon the County Council or any other public agency to improve, repair, or maintain the streets, grounds or other improvements appearing on the plan. The Commission may adopt and the County Council may approve such regulations as are deemed advisable for the removal of snow from the streets appearing on the plan from the time the plan is recorded until the obligation to maintain such improvements is assumed either by a maintenance corporation or by an appropriate public agency.

(9 Del. C. 1953, § 3008; 55 Del. Laws, c. 49; 70 Del. Laws, c. 255, § 1; 71 Del. Laws, c. 401, § 15.)

## § 3009. Approved plan to be recorded.

The subdivider shall, within 120 days after the approval of a plan, record such plan in the office of the Recorder of Deeds. If such plan is not recorded within said time, the approval shall expire.

(9 Del. C. 1953, § 3009; 55 Del. Laws, c. 49.)

## § 3010. Schedule of fees.

The Commission shall establish a uniform schedule of fees to be paid by the subdivider and to be proportioned to the cost of processing a subdivision submitted for review and approval of the Commission. No schedule established by the Commission shall become effective unless and until approved by the County Council.

(9 Del. C. 1953, § 3010; 55 Del. Laws, c. 49; 71 Del. Laws, c. 401, § 15.)

## § 3011. Effect of approved plan on official map.

After a plan has been approved and recorded as provided under this chapter, all public streets and public grounds on such plan shall be, and become, a part of the official map of the County without public hearing.

(9 Del. C. 1953, § 3011; 55 Del. Laws, c. 49.)

## § 3012. Notice to local school districts of residential subdivision plans or changes in residential subdivision plans that increase density.

With respect to the initial approval of a residential subdivision plan or any change in a residential subdivision plan that increases residential density, the County Council shall notify the local school district for the area at least 7 days prior to any such approval process.

(66 Del. Laws, Sp. Sess., c. 195, § 2; 71 Del. Laws, c. 401, § 15.)

## § 3013. Effect of open space acquisition.

Notwithstanding any other provisions of this chapter to the contrary, upon the acquisition by the county government of areas of land, whether by sheriff’s sale or otherwise, previously shown as open space on the recorded plats of the county, such lands shall be deemed as dedicated and available for public use. Such acquisition shall not impose any duty or obligation upon the county government or other public agency to improve, repair or maintain the open space.

(72 Del. Laws, 1st Sp. Sess., c. 258, § 118.)

# Part II
# New Castle County

## Chapter 31

## Pension Plan for Employees [Repealed].

### §§ 3101, 3102. Contributory funded pension program authorized; participation; pension plan for nonparticipants in contributory funded program [Repealed].

Repealed by 71 Del. Laws, c. 401, § 90, effective July 13, 1998.

# Part II
# New Castle County

## Chapter 32
## New Castle County Tax Increment Financing Act

### § 3201. Title.

This chapter shall be known as the "New Castle County Tax Increment Financing Act."

(76 Del. Laws, c. 187, § 1.)

### § 3202. Definitions.

As used in this chapter:

(1) "Act" means the New Castle County Tax Increment Financing Act.

(2) "Adjusted assessed value" means:

a. For real property that qualifies for an agricultural, horticultural or forest use under § 8329 of this title, the assessed value of the property without regard to its agricultural, horticultural or forest use assessment as of January 1 of the calendar year in which the resolution creating the tax increment financing (TIF) District under § 3206 of this title becomes effective; or

b. In the event the county grants an exemption from taxes, the original assessed value less the assessed value of property granted an exemption.

(3) "Assessed value" means the total assessed value of all real property in a TIF District subject to taxation as determined by the Assessor, with any adjustment pursuant to paragraph (2) of this section taken into account.

(4) "Assessor" shall mean the General Manager of the New Castle County Department of Land Use or designee.

(5) "Bonds" or "bond" means any revenue or general obligation bonds or bond, notes or note, or other similar instruments or instrument issued by New Castle County pursuant to and in accordance with this chapter.

(6) "Chief financial officer" means New Castle County Chief Financial Official or designee.

(7) "County" or "county" means New Castle County.

(8) "County council" means New Castle County Council or designee.

(9) "County executive" means the County Executive for New Castle County or designee.

(10) "Development" means redevelopment, revitalization or renovation.

(l1) "Issuer" or "issuer" means New Castle County when it acts to issue bonds or to any other taxing body when it issues bonds.

(12) "Original assessed value" means the assessed value as of January 1 of the calendar year in which the resolution creating the TIF District under § 3206(1) of this title becomes effective.

(13) "Tax increment" means for any tax year the amount by which the assessed value as of January 1 preceding that tax year exceeds the original assessed value.

(14) "Tax year" means the fiscal year for the county.

(15) "TIF District" means an area designated by a resolution described in § 3206(1) of this title.

(76 Del. Laws, c. 187, § 1.)

### § 3203. Bonds to finance development of industrial, commercial or residential area authorized.

In addition to whatever other powers it may have, and notwithstanding any limitation of law, the county may borrow money by issuing and selling bonds, at any time and from time to time, for the purpose of financing the development of an industrial, commercial or residential area. The issuance of general obligation bonds pursuant to this chapter shall comply with any debt limits otherwise applicable to the county.

(76 Del. Laws, c. 187, § 1.)

### § 3204. Payment of bonds.

Bonds shall be payable from the special fund described in this chapter, and county council may grant a security interest in such fund to secure such payment, it may also pledge its full faith and credit or establish sinking funds, establish debt service reserve funds, or pledge other assets and revenues towards the payment of the principal, premium, if any, and interest, including special taxes levied and collected pursuant to Chapter 33 of this title.

(76 Del. Laws, c. 187, § 1.)

### § 3205. Application of bond proceeds.

All proceeds received from any bonds issued and sold pursuant to this chapter shall be applied solely for:

(1) The cost of purchasing, leasing, condemning, or otherwise acquiring land or other property, or an interest in them, including finance and interest charges, in the designated TIF District or as necessary for rights-of-way or other easements to or from the TIF District;

(2) Demolition, debris removal and disposal costs;

(3) Plans, specifications, studies, surveys, forecasts and estimates of cost and revenues;

(4) Relocation of businesses or residents;

(5) Installation of utilities, construction of parks, playgrounds, recreational areas, establishment of open areas, and other improvements, including streets, roads, signage, landscaping, and pathways to, from, or within the TIF District, parking, lighting and other facilities;

(6) Maintenance of utilities, parks, playgrounds, recreational areas, open areas, and other improvements, including streets, roads, signage, landscaping, and pathways to, from, or within the TIF District, parking, lighting, and other facilities;

(7) Construction or rehabilitation of buildings, except schools;

(8) Remediation of property, except schools;

(9) Reserves or capitalized interest;

(10) Necessary costs of issuing bonds;

(11) Permissive costs of issuing and servicing bonds, which may include up to 0.5% of the bond issue as origination costs incurred by the county, and up to 2.0% of the bond debt service payments as administrative costs if administered by the county;

(12) Payment of the principal, premium, if any, and interest on loans, money advanced, or any indebtedness incurred by the county for any of the purposes set out in this section, including the refunding of bonds previously issued under this chapter; and

(13) Any costs permitted under § 3301(3) of this title, and for any purposes described in § 3302(b)(2) of this title; provided, however, that the purposes described in § 3302(b)(2) of this title shall be with reference to the designated TIF District.

(76 Del. Laws, c. 187, § 1.)

## § 3206. Conditions precedent to issuance of bonds.

Before issuing any bonds, county council shall:

(1) Designate by resolution an area within the Claymont Hometown Overlay District of New Castle County as a "TIF District."

(2) Receive from the appropriate Assessor a certification as to the amount of the original assessed value.

(3) Pledge that until the bonds have been fully paid, or thereafter, the property taxes on real property within the TIF District shall be divided and applied in the priority determined by the county as follows:

a. That portion of the taxes which would be produced by the rate at which taxes levied each year by or for the county upon the original assessed value shall be allocated to and when collected paid into the funds of the taxing body in the same manner as taxes by or for the taxing body on all other property are paid.

b. That portion of the taxes representing the levy on the tax increment that would normally be paid to the county shall be paid into a special fund to be applied in accordance with the provisions of § 3208 of this title.

c. That portion of the taxes representing the levy on the tax increment that would normally be paid to or on behalf of a taxing body other than the county shall be allocated to and, when collected, paid into the funds of such taxing body in the same manner as taxes by or for the taxing body on all property are paid, or any other manner that public agencies so determine (school districts, etc.); provided, however, if such taxing body has agreed pursuant to § 3209 of this title that such taxes shall be paid into a special fund created in accordance with § 3207 of this title, then such taxes shall be paid into such special fund.

(76 Del. Laws, c. 187, § 1.)

## § 3207. Resolution creating special fund.

The governing body of the county may adopt a resolution creating a special fund with respect to a TIF District, even though no bonds authorized by this chapter have been issued by the county with respect to that TIF District or are then outstanding. The taxes allocated to such special fund by § 3206(3)b. or c. of this title shall thereafter be paid over to such special fund, as long as such resolution remains in effect.

(76 Del. Laws, c. 187, § 1.)

## § 3208. Uses of special fund.

(a) *Uses of special fund when no bonds outstanding.* — When no bonds authorized by this chapter are outstanding with respect to a TIF District and the county council so determines, moneys in the special fund for that TIF District created pursuant to § 3207 of this title may be:

(1) Used for any of the purposes described in § 3205 of this title for which bond proceeds could be used;

(2) Accumulated for payment of debt service on bonds subsequently issued under this chapter;

(3) Used to pay or to reimburse the county for debt service which the county is obligated to pay or has paid (whether such obligation is general or limited) on bonds issued by the county, or any agency or department thereof, the proceeds of which have been used for any of the purposes specified in § 3205 of this title; or used to pay or reimburse any developer loan; or

(4) Paid to the county to provide funds to be used for any legal purpose as may be determined by the county.

(b) *Restrictions on use of special funds.* — When any bonds authorized by this chapter are outstanding with respect to a TIF District and county council so determines, moneys in the special fund for that TIF District created pursuant to § 3207 of this title may be used as provided in subsection (a) of this section in any fiscal year by the county, but only to the extent that:

(1) The amount in such special fund exceeds the unpaid debt service payable on such bonds in such fiscal year and is not restricted so as to prohibit the use of such moneys;

(2) Such use is not prohibited by the ordinance authorizing the issuance of such bonds; and to the extent not prohibited by bond or loan covenants.

(76 Del. Laws, c. 187, § 1.)

## § 3209. Agreements to pay revenue from taxes on tax increment into special fund.

A municipality, school district or other taxing body within the county which is not an issuer may pledge, by written agreement, that some or all of its property taxes levied on the tax increment shall also be paid into a special fund created pursuant to § 3207 of this title. Such agreement shall be between the county council and the taxing body and shall run to the benefit of and be enforceable on behalf of any bondholder.

(76 Del. Laws, c. 187, § 1.)

## § 3210. Ordinance authorizing bonds.

(a) *Mandatory provisions.* — In order to implement the authority conferred upon it by this chapter to issue bonds, County Council shall adopt an ordinance that:

(1) Specifies and describes the proposed undertaking and states that it has complied with § 3206 of this title;

(2) Specifies the maximum rate or rates of interest the bonds are to bear.

(b) *Additional provisions.* — The resolution described in § 3207 of this title may itself specify and prescribe, or may authorize its chief financial officer or its county executive to specify and prescribe any of the following as it deems appropriate to effect the financing of the proposed undertaking:

(1) The actual principal amount of the bonds to be issued;

(2) The actual rate or rates of interest the bonds are to bear;

(3) The manner in which and the terms upon which the bonds are to be sold;

(4) The manner in which and the times and places that the interest on the bonds is to be paid;

(5) The time or times that the bonds may be executed, issued and delivered;

(6) The form and tenor of the bonds and the denominations in which the bonds may be issued;

(7) The manner in which and the times and places that the principal of the bonds is to be paid, within the limitations set forth in this chapter;

(8) Provisions pursuant to which any or all of the bonds may be called for redemption prior to their stated maturity dates; or

(9) Such other provisions not inconsistent with this chapter as shall be determined by such legislative body to be necessary or desirable to effect the financing of the proposed undertaking.

(76 Del. Laws, c. 187, § 1.)

## § 3211. Exemption of bonds from taxation.

The principal amount of the bonds, the interest payable thereon, their transfer, and any income derived therefrom, including any profit made in the sale or transfer thereof, shall be exempt from taxation by the State and by the several counties and municipalities of this State.

(76 Del. Laws, c. 187, § 1.)

## § 3212. Nature and incidents of bonds.

(a) *Form of bond; deemed "securities".* — All bonds shall be in fully registered form. Each of the bonds shall be deemed to be a "security" within the meaning of § 8-102 of Title 6, whether or not it is either 1 or a class or series or by its terms is divisible into a class or series of instruments.

(b) *Signing and sealing.* — All bonds shall be signed manually or in facsimile by the county executive, and the seal of the county shall be affixed thereto and attested by the chief financial officer or other administrative officer of the county. If any officer whose signature or countersignature appears on the bonds ceases to be such officer before delivery of the bonds, that officer's signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if that officer had remained in office until delivery.

(c) *Maturity.* — All bonds shall mature not later than 30 years from their date of issuance.

(d) *Sale.* — All bonds shall be sold in such manner, either at public or private sale and upon such terms as the governing body of the issuer deems best. Any contract for the acquisition of property may provide that payment shall be made in bonds.

(e) *Bonds issued are securities.* — Bonds issued under this chapter are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, State banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

(f) Bonds are nonrecourse to the county and shall only be paid from TIF and SDD assessments permitted by this Chapter 32 and Chapter 33 of this title.

(76 Del. Laws, c. 187, § 1; 70 Del. Laws, c. 186, § 1.)

## § 3213. Taxation of leased property in TIF District.

Whenever the county, as lessor, leases its property within the TIF District, the property shall be assessed and taxed in the same manner as privately owned property, and the lease or contract shall provide that the lessee shall pay taxes or payments in lieu of taxes upon the assessed value of the entire property and not merely the assessed value of the leasehold interest.

(76 Del. Laws, c. 187, § 1.)

## § 3214. TIF District consistency with certified comprehensive plan.

The use of lands in a TIF District shall be consistent with the comprehensive plan for the area as certified pursuant to § 9103(f) of Title 29.

(76 Del. Laws, c. 187, § 1.)

## § 3215. Construction of chapter.

This chapter, being necessary for the welfare of the State and its residents, shall be liberally construed to effect the purpose of this chapter.

(76 Del. Laws, c. 187, § 1.)

# Part II
# New Castle County

## Chapter 33
## New Castle County Special Development Districts

### § 3301. Definitions.

In this chapter the following terms shall have the meanings indicated:

(1) "Bonds" or "bond" means a special obligation bond, revenue bond, note, or other similar instrument issued by New Castle County in accordance with this chapter.

(2) "Chief financial officer" means New Castle County Chief Financial Official or designee.

(3) "Cost" includes the cost of:

a. Construction, reconstruction, and renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or to be acquired by a local, state or federal government or any agency, department or office thereof for a public purpose;

b. All machinery and equipment including machinery and equipment needed to expand or enhance county services to the special development districts created pursuant to § 3302 of this title.

c. Financing charges and interest prior to and during construction, and, if deemed advisable by the county, for a limited period after completion of the construction, interest and reserves for principal and interest, including costs of county bond insurance and any other type of financial guaranty, liquidity support, and costs of issuance;

d. Extensions, enlargements, additions and improvements;

e. Architectural, engineering, financial and legal services;

f. Plans, specifications, studies, surveys and estimates of cost and of revenues;

g. Administrative expenses necessary or incident to determining to proceed with the infrastructure improvements; and

h. Other expenses authorized or incident to the construction, acquisition, financing and operation of the infrastructure improvements, including administrative expenses charged to collect and/or administer the tax revenues.

(4) "County" or "county" means New Castle County.

(5) "County council" means New Castle County Council or designee.

(6) "County executive" means New Castle County Executive or designee.

(76 Del. Laws, c. 187, § 2.)

### § 3302. Special taxes authorized; purpose; requirements and restrictions.

(a) Subject to the provisions of this section, and for the purpose stated in subsection (b) of this section, the county may:

(1) Create a special development district;

(2) Levy ad valorem or special taxes; and

(3) Issue bonds and other obligations.

(b) The purpose of the authority granted under subsection (a) of this section is to provide financing, refinancing, or reimbursement for:

(1) The cost of the design, construction, establishment, extension, alteration, maintenance, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, traffic signals, signage, sidewalks, lighting, parking, parks and recreation facilities, open space, farm land preservation, fire protection facilities, public safety facilities, paramedic facilities, libraries, transit facilities, solid waste facilities, identifying monuments, landscaping of entrances and medians, and other improvements, including infrastructure improvements as authorized, whether situated within the special development district or outside the special development district if the improvements, including infrastructure improvements provide service or benefit to the property within the special development district, for the development and utilization of the land, each with respect to any defined geographic region within the county; and

(2) Any cost in which the proceeds of a bond issued pursuant to Chapter 32 of this title and as defined in § 3205 of this title may be used and any other cost associated with tax increment financing undertaken with respect to TIF Districts pursuant to Chapter 32 of this title.

(76 Del. Laws, c. 187, § 2.)

### § 3303. Issuance and sale of bonds; section self-executing.

(a) In addition to other powers the county may have, and notwithstanding the provisions of any other public local law, or public general law, the county may borrow money by issuing and selling bonds for the purposes stated in § 3302(b) of this title, if a request to the county is made by both:

(1) The owners of at least $^2/_3$ of the assessed valuation of the real property located within the special development district; and

(2) At least $^2/_3$ of the owners of the acreage located within the special development district, provided that:

a. Multiple owners of a single parcel are treated as a single owner; and

b. A single owner of multiple parcels is treated as 1 owner.

(b) This section is self-executing and does not require the county to enact legislation to exercise the powers granted under this section.

(76 Del. Laws, c. 187, § 2.)

## § 3304. Bonds payable from special fund; complementary powers of governing body; proceeds.

(a) Bonds shall be payable from the special fund required under § 3305 of this title.

(b) If the county council issues bonds under this section, the county council may also:

(1) Establish sinking funds;

(2) Establish debt service reserve funds;

(3) Pledge other assets and revenues towards the payments of the principal, premium, if any, and interest; or

(4) Provide for bond insurance or any other type of credit enhancement or liquidity support of the bonds.

(c) All proceeds received from any bonds issued and sold shall be applied solely to pay costs, including:

(1) Costs of design, construction, establishment, extension, alteration, or acquisition of improvements, including infrastructure improvements;

(2) Costs of issuing bonds;

(3) Permissive costs of issuing and servicing the bonds, which may include up to 0.5% of the bond issue as origination costs incurred by the county, and up to 2.0% of the bond debt service payments as administrative costs if administered by the county;

(4) Payment of the principal and interest on loans, development loans, money advances, or any indebtedness for any of the purposes stated in § 3302(b) of this title, including the refunding of bonds previously issued under this section;

(5) Funding of a debt service reserve fund or payment of interest prior to, during, or for a limited period of time after construction; and

(6) Purposes described in §§ 3205 and 3302(b) of this title.

(76 Del. Laws, c. 187, § 2.)

## § 3305. Actions necessary before issuing bonds.

(a) Before issuing bonds pursuant to this section, county council shall:

(1) Designate by resolution an area or areas within the Claymont Hometown Overlay District of New Castle County as a special development district;

(2) Subject to subsection (b) of this section, adopt a resolution creating a special fund with respect to the special development district; and

(3) Provide for the levy of an ad valorem or special tax on all real property within the special development district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, and for any other purpose related to the ongoing expenses of or security, including debt service coverage requirements, for the bonds. Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem real property tax purposes within the district, and shall be discontinued when all of the bonds have been paid in full. Special taxes shall be levied pursuant to § 3313 of this title.

(b) The resolution creating a special fund under paragraph (a)(2) of this section shall:

(1) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph (a)(3) of this section and shall specify the priority of application with other ad valorem or special taxes; and

(2) Require that the proceeds from the tax be paid into the special fund.

(76 Del. Laws, c. 187, § 2.)

## § 3306. When no bonds outstanding.

When no bonds are outstanding with respect to a special development district:

(1) The special development district shall be terminated; and

(2) Any moneys remaining in the special fund on the date of termination of the special development district shall be paid to the general fund of the county.

(76 Del. Laws, c. 187, § 2.)

## § 3307. Adoption of ordinance to implement authority.

(a) In order to implement the authority conferred upon it by this section to issue bonds, the county council shall adopt an ordinance that:

(1) Specifies and describes the proposed undertaking and states that it has complied with § 3305 of this title;

(2) Specifies the maximum principal amount of bonds to be issued;

(3) Specifies the maximum rate or rates of interest for the bonds; and

(4) Agrees to a covenant to levy upon all real property within the special development district, ad valorem taxes or special taxes in rate and amount at least sufficient in each year in which any of the bonds are outstanding to provide for the payment of the principal of, premium, if any, and the interest on the bonds.

(b) The ordinance may specify or may authorize its chief financial officer or its county executive to specify any of the following as it deems appropriate to effect the financing of the proposed undertaking;

(1) The actual principal amount of the bonds to be issued;

(2) The actual rate or rates of interest for the bonds;

(3) The manner in which and the terms upon which the bonds are to be sold;

(4) The manner in which and the times and places that the interest on the bonds is to be paid;

(5) The time or times that the bonds may be executed, issued and delivered;

(6) The form and tenor of the bonds and the denominations in which the bonds may be issued;

(7) The manner in which and the times and places that the principal of the bonds is to be paid, within the limitations set forth in this section;

(8) Provisions pursuant to which any or all of the bonds may be called for redemption prior to their stated maturity dates; or

(9) Any other provisions not inconsistent with this section as shall be determined by county council to be necessary or desirable to effect the financing of the proposed undertaking.

(c) An ordinance authorizing the bonds provided for under this chapter, an ordinance, resolution, or executive order passed or adopted in furtherance of the required ordinance, the bonds, the designation of a special development district, or the levy of a special ad valorem tax or special tax may not be subject to any referendum by reason of any other state or local law.

(d) The ordinance authorizing the bonds required under this subsection, any ordinance, resolution, or executive order passed or adopted in furtherance of the required ordinance, the bonds, the designation of a special development district, or the levy of a special ad valorem tax or special tax shall be subject to the request of the landowners as specified under § 3303(a) of this title.

(76 Del. Laws, c. 187, § 2.)

## § 3308. Taxation of bonds.

The principal amount of the bonds, the interest payable on the bonds, their transfer and any income derived from the transfer, including any profit made in the sale or transfer of the bonds, shall be exempt from taxation by the State and by the counties and municipalities of the State.

(76 Del. Laws, c. 187, § 2.)

## § 3309. Bond form; signatures; maturity; manner of sale.

(a) All bonds shall be in fully registered form. Each of the bonds shall be deemed to be a security as defined in § 8-102 of Title 6, whether or not it is either 1 of a class or series or by its terms is divisible into a class or series of instruments.

(b) All bonds shall be signed manually or in facsimile by the county executive, and the seal of the county shall be affixed to the bonds and attested by chief financial officer or other similar administrative officer of the county. If any officer whose signature or countersignature appears on the bonds ceases to be such officer before delivery of the bonds, the officer's signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until delivery.

(c) All bonds shall mature not later than 30 years from their date of issuance.

(d) All bonds shall be sold in the manner, either at public or private sale, and upon the terms, as county council deems best. Any contract for the acquisition of property may provide that payment shall be made in bonds.

(76 Del. Laws, c. 187, § 2.)

## § 3310. Bonds issued are securities.

Bonds issued under this chapter are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, state banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

(76 Del. Laws, c. 187, § 2.)

## § 3311. Powers granted are supplemental to other laws.

The powers granted under this chapter shall be regarded as supplemental and additional to powers conferred by other laws, and may not be regarded as in derogation of any powers now existing.

(76 Del. Laws, c. 187, § 2.)

## § 3312. Construction of chapter.

This chapter, being necessary for the welfare of the State and its residents, shall be liberally construed to effect the purpose stated in § 3302(b) of this title.

(76 Del. Laws, c. 187, § 2.)

## § 3313. Special taxes on real property as alternative to ad valorem taxes.

(a) As an alternative to levying ad valorem taxes under this chapter, county council may levy special taxes on real property in a special development district to cover the cost of infrastructure improvements, including but not limited to costs defined in § 3301(3) of this title. In determining the basis for and amount of the tax, the cost of an improvement may be calculated and levied:

(1) Equally per front foot, lot, parcel, dwelling unit, or square foot;

(2) According to the value of the property as determined by the county, with or without regard to improvements on the property; or

(3) In any other reasonable manner that results in fairly allocating the cost of the infrastructure improvements.

(b) County council may provide by ordinance or resolution for:

(1) A maximum amount to be assessed with respect to any parcel of real property located within a special development district;

(2) A tax year or other date after which no further special taxes under this section shall be levied or collected on a parcel; and

(3) The circumstances under which the special tax levied against any parcel may be increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any other parcel within the special development district.

(c) County council by ordinance or resolution may establish procedures allowing for the prepayment of special taxes under this section.

(d) Special taxes levied under this subsection shall be collected and secured in the same manner as general ad valorem real property taxes unless otherwise provided in the ordinance or resolution and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for general ad valorem real property taxes.

(76 Del. Laws, c. 187, § 2.)

## § 3314. Bonds not to constitute general obligation debt.

Bonds issued under this chapter are a special obligation of the county or Special Development District (SDD) and may not constitute a general obligation debt of the county, or a pledge of the county's full faith and credit or taxing power. Bonds are nonrecourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

(76 Del. Laws, c. 187, § 2.)

## § 3315. Special Development District consistency with certified comprehensive plan.

The use of lands in a Special Development District shall be consistent with the comprehensive plan for the area as certified pursuant to § 9103(f) of Title 29.

(76 Del. Laws, c. 187, § 2.)

## § 3316. Limitation on ad valorem or special taxes within Special Development District.

The levy of an ad valorem or special tax pursuant to § 3302(a)(2) or § 3313(a) of this title shall not be applicable to and shall not be imposed on special betterments property as defined in § 8101(e) of this title owner or leased by a "public utility" as defined in § 102 of Title 26.

(76 Del. Laws, c. 187, § 2; 85 Del. Laws, c. 315, § 1.)

# Part II
# New Castle County

## Chapter 34
## Stormwater Management

(83 Del. Laws, c. 133, § 1.)

### § 3401. Definitions.

For purposes of this chapter:

(1) "Stormwater maintenance district" means an area in New Castle County, created under this chapter, that has ascertainable boundaries and provides efficient and economical stormwater maintenance.

(2) "Stormwater management" means a system of vegetative, structural, and other measures that does all of the following:

a. For water quantity control, controls the volume and rate of stormwater runoff which may be caused by land disturbing activities or activities upon the land.

b. For water quality control, controls adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

(83 Del. Laws, c. 133, § 1.)

### § 3402. Establishing a stormwater maintenance district.

(a) County government shall adopt an ordinance implementing this chapter, that provides the procedures and criteria for the establishment and operation of stormwater maintenance districts.

(b) *Subdivisions and land developments approved after January 13, 2022. —*

Any new subdivision or land development in any unincorporated area in New Castle County that is approved after January 13, 2022, shall establish a stormwater maintenance district, as required by the ordinance adopted under subsection (a) of this section, as a condition of plan approval. Fees for the district must not be incurred until the subdivision or land development is complete and the stormwater infrastructure is approved by the appropriate regulating agency.

(c) *Subdivisions and land developments established before January 13, 2022. —*

Any subdivision or land development established before January 13, 2022, in any unincorporated area in New Castle County contained within ascertainable boundaries, may petition county government under the ordinance adopted under subsection (a) of this section to declare the area a stormwater maintenance district.

(d) The county government may establish a stormwater maintenance district within an incorporated area of the County under subsection (a) of this section, but only with the concurrence of the local governing body.

(83 Del. Laws, c. 133, § 1.)

### § 3403. Public hearing.

(a) Upon receipt of a petition under § 3402(c) of this title from an existing subdivision or land development, the county government shall hold a public hearing on the petition. The notice of the public hearing must be published at least once in a newspaper published within New Castle County. The notice must be published between 10 and 21 days before the public hearing and must contain all of the following:

(1) A description of the boundaries of the proposed stormwater maintenance district.

(2) A statement that the county government will hold a hearing to consider whether or not to create the proposed district.

(3) A statement that in the event the county government decides to create the proposed stormwater maintenance district, the county government will assess the unit costs of stormwater maintenance against each unit of real property within the stormwater maintenance district.

(b) Any new subdivision or land development required to establish a stormwater maintenance district under § 3402 of this title is also subject to all hearing procedures and all requirements for a proposed plan as established under the New Castle County Code.

(83 Del. Laws, c. 133, § 1.)

### § 3404. Creation of stormwater maintenance district.

(a) If the county government determines, after the public hearing required under § 3403 of this title, that it is in the public interest to establish the proposed stormwater maintenance district under the ordinance adopted under § 3402(a) of this title, county government shall adopt an ordinance establishing the stormwater maintenance district.

(b) Except as provided under the ordinance adopted under § 3402(a) of this title, the establishment of a stormwater maintenance district and the resulting infrastructure maintenance managed by New Castle County takes precedence over any homeowner obligation for stormwater management included in declarations of restrictions or similar development agreements. Any common open space

or infrastructure within a community not maintained as part of a stormwater maintenance district remains the responsibility of the homeowners.

(83 Del. Laws, c. 133, § 1.)

## § 3405. Agreements for stormwater maintenance authorized.

The county government may enter into an agreement with the New Castle Conservation District or other government, nonprofit, or for-profit agency or organization to maintain the stormwater infrastructure of each stormwater maintenance district.

(83 Del. Laws, c. 133, § 1.)

## § 3406. Award of contracts.

Either county government or the New Castle Conservation District may enter into contracts for maintenance of stormwater infrastructure that cannot be completed by existing staff. All contracts entered under this section must follow applicable state and local laws and policies.

(83 Del. Laws, c. 133, § 1.)

## § 3407. Levy and collection of stormwater maintenance fee.

(a) In order to fund the annual and long-term costs for each stormwater maintenance district, the county government shall establish a fee structure for each district and divide the annual cost, plus a pro rata administrative cost as determined by the county government, by the total number of applicable units within the stormwater maintenance district to arrive at the annual unit cost. The annual unit cost shall be assessed against each unit located within the boundaries of the stormwater maintenance district. No parcel of real estate may be exempt from paying its annual unit cost. The established fee structure does not need to be uniform among districts.

(b) County government shall levy and collect the annual unit cost assessed against each unit in a stormwater maintenance district at the same time and in the same manner as other New Castle County taxes and the annual unit cost is a lien on real property the same as other New Castle County taxes. The county government shall include this fee on tax bills under the heading “stormwater maintenance fee.”

(83 Del. Laws, c. 133, § 1.)

## § 3408. Administration of funds.

All amounts collected under this chapter shall be paid into a fund of New Castle County as provided under the ordinance adopted under § 3402(a) of this title and all payments for stormwater maintenance shall be paid out of this fund. Should New Castle County fail in any 1 year to collect all of the fees in the stormwater maintenance district necessary to pay the price for stormwater maintenance in any year, the county government may pay the deficit out of this fund pending enforcement of the lien. The county government may make payments out of this fund in anticipation of collection of the stormwater maintenance fee.

(83 Del. Laws, c. 133, § 1.)

## § 3409. Continuation and termination of contracts; consolidation of stormwater maintenance districts.

The county government may determine not to continue stormwater maintenance for any stormwater maintenance district at the expiration of any agreement entered into under this chapter. The county government may, without further public hearings, consolidate 2 or more stormwater maintenance districts into a single district.

(83 Del. Laws, c. 133, § 1.)

## § 3410. Annual budgeting.

(a) The annual amounts required for stormwater maintenance under this chapter must be included in the annual budget under separate headings for each stormwater maintenance district. County expenditures related to stormwater maintenance districts will be available for public review on the county government website.

(b) After levying the stormwater maintenance fee, the county government shall deliver a separate fee collection warrant, together with a list of charges in each stormwater maintenance district, to the County Chief Financial Officer and shall command that the County Chief Financial Officer collect from the persons named in the list their stormwater maintenance fee and its amount.

(c) Should a stormwater maintenance district be formed after the commencement of any fiscal year, the county government shall include an amount sufficient to reimburse the general fund for the expenditure during the last fiscal year in the next annual budget, as well as an amount sufficient to pay the cost for the coming fiscal year.

(83 Del. Laws, c. 133, § 1.)

# Part II
# New Castle County
## Chapter 35
## New Castle County Neighborhood Improvement Districts

(83 Del. Laws, c. 457, § 1.)

### § 3501. Short title.

This chapter shall be known as the "New Castle County Neighborhood Improvement District Act."

(83 Del. Laws, c. 457, § 1.)

### § 3502. Legislative findings.

The General Assembly finds and declares that:

(a) Marshaling New Castle County resources in a concerted manner under "one roof" to focus on persistent neighborhood problems, as contemplated by this chapter, increases the possibility of successfully resolving systemic neighborhood problems.

(b) Preserving and improving neighborhoods is critical to the long-term well-being of the State and to New Castle County.

(c) The provision of enhanced services, including for example, district-wide sanitation and snow removal, within New Castle County's neighborhoods would result in greater neighborhood stability and improved quality of life.

(d) Numerous jurisdictions around the world and the United States, including Philadelphia, Baltimore, Buffalo, and Allentown, among many others, have successfully implemented and been the beneficiaries of such enhanced services through the creation of neighborhood improvement districts.

(e) The enhanced services and related programs provided within a neighborhood improvement district are funded by property owners within each district, who are the primary beneficiaries thereof, which reduces additional demands on the strained public treasury.

(f) It is in the best interests of the State, County, and its residents to create, where feasible and desired by the property owners and residents in each district, assessment-based neighborhood improvement districts to promote more attractive and healthier neighborhoods.

(g) The County should be given broad discretion in establishing by ordinance the type of assessment-based enhanced services and programs that are most consistent with neighborhood needs, goals, and objectives as determined and expressed by property owners and residents in the district.

(83 Del. Laws, c. 457, § 1.)

### § 3503. Definitions.

The following words and phrases when used in this Chapter shall have the meanings provided herein:

(1) "Benefited property" means a nonexempt specially-assessed property located within a neighborhood improvement district that benefits from enhanced services and related programs based on a rational nexus test. Properties need not benefit equally to be considered to have benefited.

(2) "Cost of services" includes consulting fees, professional fees, preliminary planning expenditures, feasibility study expenditures, financing costs, administrative costs, and any other expenditures necessary or incidental to the development or provision of enhanced services and related programs.

(3) "District advisory council" means an optional advisory committee comprised of property owners and residents from the neighborhood improvement district that may be established under § 3507 of this title for the purpose of providing recommendations to the neighborhood improvement district management association regarding needed enhanced services within the district.

(4) "Enhanced services" means additional or increased services aimed at improving the ability of property owners and residents to enjoy a safer and healthier neighborhood due to the provision of expanded services, which include services such as district-wide street cleaning, district-wide snow removal, district-wide trash removal, and maintenance of open space.

(5) "Neighborhood" means a limited geographic area situated within an unincorporated area of New Castle County and located in a residential district, the limits of which form the neighborhood improvement district boundaries, as identified on a filed record plan.

(6) "Neighborhood improvement district" means a neighborhood, as identified on a filed record plan, in which a special assessment is levied on designated property, other than exempt property, for the purpose of promoting the general health and welfare of the district, hereinafter referred to as a "NID."

(7) "Neighborhood improvement district management association" means the corporate body that oversees the management of each neighborhood improvement district established pursuant to § 3506 of this title, which hereinafter shall be referred to as a "NIDMA."

(8) "Neighborhood improvement district plan" means the strategic plan for enhanced neighborhood services and related programs required under § 3505 of this title, hereinafter referred to as a "NIDP," to be provided within the district pursuant to the plan implemented and administered by the NIDMA.

(9) "Rational nexus" means that there is a rational, definable benefit that accrues to any nonexempt property owner assessed a special assessment fee for said benefit in a NID created under this chapter.

(10) "Residential district" means, for purposes of this chapter, a limited geographical area comprised of real property consisting predominantly of buildings and structures for housing individuals and families, including single-family detached homes, single-family semi-detached homes, townhouses, condominiums, apartments, manufactured homes, modular homes, and any combination of the above.

(11) "Service area" means the area within the boundaries of the NID in which the NIDMA provides or administers enhanced services.

(12) "Special assessment" or "special assessment fee" means the fee assessed on nonexempt properties within a NID levied by the county for purposes of providing enhanced services in a district under § 3508 of this title.

(13) "Sunset provision" means a provision in the NIDP which, under § 3505 of this title, provides for the dissolution of the NID, unless re-enacted by County Council, on a date up to 5 years from commencement as identified in the approved Final NIDP and in the county ordinance establishing a NID. The NID may be continued beyond such initial date, provided the County adopts an ordinance extending the lifespan of the NID, following a review by County Council of the NID and the enhanced services provided therein.

(83 Del. Laws, c. 457, § 1.)

## § 3504. Powers of New Castle County.

New Castle County shall have the power to:

(1) Establish within the County certain areas designated as a NID.

(2) Designate a nonprofit corporation, created for the purposes of this chapter, as the NIDMA with the certain powers established under this chapter.

(3) Through the County Office of Finance, administer on behalf of or in conjunction with the NIDMA, and in accordance with any specific provisions contained in the county ordinance establishing the NID, all appropriations and expenditures as determined by the NIDMA, which may include federal, state, and county funds received by the County Office of Finance on behalf of the NIDMA, as necessary, including to prepare or have prepared preliminary research, planning, and feasibility studies to determine needed enhanced services and related programs in the NID, including services such as graffiti removal, district-wide sanitation needs, and snow removal. The provision of enhanced services is to supplement, not replace, the existing level of services provided within the NID.

(4) Review proposed appropriations and expenditures of funds within the NID by or on behalf of the NIDMA, and provide recommendations related thereto.

(5) Advance funds to a NIDMA as may be necessary to carry out the purposes of this chapter.

(6) Levy a special assessment on nonexempt properties located within the NID necessary to fund enhanced services within the NID.

(7) Collect a special assessment on behalf of the NIDMA levied on designated properties within the NID and to employ necessary legal methods to ensure collection of the special assessment.

(8) Impose and file liens on property for nonpayment of the special assessment.

(9) Include an initial sunset provision of up to 5 years in the county ordinance creating the NID and in the agreement between the County and the NIDMA.

(83 Del. Laws, c. 457, § 1.)

## § 3505. Creation of a neighborhood improvement district.

(a) *Establishment.* — (1) Property owners and residents in a proposed NID, or the County, may petition to establish a NID, subject to all requirements under this chapter.

(2) Where property owners or residents desire to establish a NID, or the County initiates such action, which occurs by way of a proposed ordinance sponsored by the District Council Member, a petition in a form established by the County must be submitted pursuant to the procedures provided for in this chapter. The proposed ordinance must identify criteria that support creation of a NID.

(3) The submission of a petition to establish a NID creates no obligation on the County to move forward with any of the procedures outlined in this chapter.

(b) *Specific procedures.* — (1) The County shall provide to all property owners and lessees thereof located in the proposed NID a copy of the preliminary plan (the "Preliminary NIDP") and the location, date, and time of the public hearing at least 30 calendar days prior to the hearing required under this chapter. In addition, notice of the public hearing must be advertised at least 10 business days prior to the hearing in a newspaper of general circulation in the County.

(2) The hearing is for the purpose of receiving public comment on the Preliminary NIDP from property owners and residents within the proposed NID.

(3) Objections, if any, to the Preliminary NIDP may be submitted by nonexempt specially-assessed property owners within the proposed NID. In order to defeat the proposed NIDP, at least 50% of the specially-assessed property owners must timely lodge an objection in the manner required under this chapter. All objections must be in writing, notarized, and be submitted to the general

manager of the Department of Community Services or designee thereof by hand delivery or electronic mail by the forty-fifth calendar day following the public hearing under this subsection. A scan or photocopy of a notarized document is valid.

(c) *Contents of the Preliminary NIDP. —* The Preliminary NIDP must include all of the following:

(1) A map indicating the boundaries of the proposed NID, as identified on the filed record plan. A designated property may not be included in more than 1 NID unless expressly authorized by ordinance of County Council.

(2) A written report from the County containing:

a. The name of the proposed NID.

b. A detailed description of the service area of the proposed NID.

c. A list of all properties to be specially assessed.

d. A list and brief description of proposed enhanced services and the estimated annual cost of the services.

e. A proposed budget for the first fiscal year, including proposed expenditures for enhanced services and related programs, which includes associated costs of services such as personnel, administration, maintenance, and operational costs.

f. The revenue sources for funding the proposed enhanced services and programs.

g. The estimated time for implementation of the proposed services and programs.

h. A brief statement identifying the NIDMA.

i. A general description of the powers and duties of the NIDMA.

j. The method of determining the special assessment fee to be levied on nonexempt properties within the NID under § 3508 of this title.

(3) The Preliminary NIDP must:

a. Identify the respective duties and responsibilities of the NIDMA and the County in relation to the NID.

b. Require that a written agreement be entered into between the NIDMA and the County.

c. Require in the agreement between the NIDMA and the County, and in the ordinance creating the NID, that the County must provide no less than the level of county services provided within the NID as before creation of the NID.

d. Provide in the agreement between the County and the NIDMA, and in the ordinance creating the NID, a sunset provision of up to 5 years, subject to extension thereafter by County Council following review of the NID and related enhanced services as provided for in § 3510 of this title.

e. Require in the agreement between the County and the NIDMA and in the ordinance creating the NID that the County is responsible for collection of a special assessment levied within the NID.

f. Allow for and encourage any owners of exempt property in the NID to provide in-kind services or a financial contribution to the NIDMA in lieu of a special assessment fee.

g. Require that in order to defeat establishment of the proposed NID, at least 50% of the specially-assessed property owners in the NID must lodge a written, notarized objection to the proposed NID. Such objection must be delivered to the general manager of the Department of Community Services or designee thereof via hand delivery or electronic mail no later than 45 calendar days following the hearing in which the County Council considers the Preliminary NIDP under subsection (b) of this section.

(d) *The Proposed Final NIDP. —*

Subsequent to the hearing on the Preliminary NIDP, unless the requisite number of objections to the Preliminary NIDP identified in subsection (b) of this section, has been timely submitted, the County shall provide a proposed final NIDP (the "Proposed Final NIDP") to all property owners and lessees thereof located within the proposed NID that reflects all revisions to the Preliminary NIDP based on comments from specially-assessed property owners and residents submitted at or within 45 calendar days following the public hearing. All revisions to the Preliminary NIDP reflected in the Proposed Final NIDP are to be identified in an easily discernible manner, such as changes being in boldfaced or italicized type.

(e) *Public hearing - Proposed Final NIDP. —*

Subject to the timely lodging of the requisite number of objections referenced in subsection (b) of this section, a public hearing to consider the Proposed Final NIDP must be held by the County. Notice of the hearing, including date, time, and place, and the means to lodge an objection, must be provided at least 30 calendar days prior to the hearing to all property owners and lessees thereof located in the proposed NID and must be advertised at least 10 business days prior to the hearing in a newspaper of general circulation in the County.

(f) *Veto of the Proposed Final NIDP. —* (1) Following the public hearing required under subsection (e) of this section, specially-assessed property owners located within a proposed NID have 45 calendar days from the date of the hearing to object to the Proposed Final NIDP.

(2) If at least 50% of specially-assessed property owners within a proposed NID fail to timely lodge an objection to the Proposed Final NIDP, the County Council may, following the 45-day period, consider an ordinance to establish a NID, or in the case of an amendment to a previously approved Final NIDP, adopt any amendments consistent with subsection (g) of this section.

(3) After the deadline has passed for objections under this section without the requisite number of objections having been lodged that would defeat the establishment of the NID, the County Council may proceed to consider the Proposed Final NIDP.

(g) *Amendments to an approved Final NIDP.* — (1) A previously approved NIDP (a "Final NIDP"), upon the recommendation of the NIDMA board, may be amended at any time after establishment of the NID. At least 51% of nonexempt specially-assessed property owners within the NID must approve the proposed amendment by lodging an approval in writing with the general manager of the Department of Community Services or designee thereof via hand delivery or electronic mail no later than 45 calendar days following the public hearing required under this subsection.

(2) Amendments to a Final NIDP may include any of the following:

a. Substantially-changed enhanced services or programs to be provided in the NID.

b. Increase in expenditures of at least 25% of the total NIDMA budget for the fiscal year.

c. Changing the special assessment fee levied on properties in the NID.

d. Changing the legal entity that administers enhanced services within the NID.

e. Changing the NID boundaries.

f. Other substantial changes to the Final NIDP as determined by County Council.

(3) The County shall provide a copy of the proposed amendments to all property owners and lessees thereof located within the proposed NID as well as notice of the hearing on the proposed amendments specifying the date, time, and place of the hearing, and the means to lodge an approval. All amendments are to be identified in an easily discernible manner, such as changes being in boldfaced or italicized type. Such notice must be provided at least 30 days prior to the hearing.

(4) The County shall provide public notice of the hearing on any proposed amendment to a Final NIDP by publication of a notice in at least 1 newspaper having a general circulation in the County, specifying the date, time, and place of the hearing, the means to lodge an approval, and the amendments to be considered. The notice must be published at least 10 business days prior to the hearing.

(5) Upon receiving the requisite number of votes under paragraph (g)(1) of this section, the County Council may proceed to consider the proposed amendments to the Final NIDP.

(6) Prior to any hearing to consider proposed amendments to increase the boundaries of a NID, each owner of property and lessees thereof proposed to be added to a NID must be notified of the date, time, and location of the public hearing on the proposed amendments and must be provided all information identified under subsections (c) and (d) of this section.

(83 Del. Laws, c. 457, § 1.)

## § 3506. Creation of the neighborhood improvement district management association.

(a) *Association designated.* —

When the County approves a NID under this chapter, a NIDMA must be designated by the County to administer the enhanced services within the NID.

(b) *Administration.* — (1) Each NID must be administered by a NIDMA.

(2) A NIDMA must be incorporated as a nonprofit corporation in this State.

(c) *Powers.* — A NIDMA created under this chapter has all the powers provided for in § 3507 upon the effective date of the county ordinance creating the NID.

(d) *Board.* —

Each NIDMA must have an administrative board.

(1) The board must be comprised of either 3 or 5 voting members and at least 1 nonvoting member representing the County.

(2) Each NIDMA board must include a representative of the specially-assessed property owners located in the NID as 1 of the voting members of the board.

(3) Board members of a NIDMA are not required to be residents of the NID.

(83 Del. Laws, c. 457, § 1.)

## § 3507. Powers of the neighborhood improvement district management association.

Subject to available funding, and as provided for in this chapter and the agreement between the County and the NIDMA, a NIDMA has, in addition to any other powers provided pursuant to the charter establishing the nonprofit corporation, the power to:

(1) Sue or be sued, implead or be impleaded, complain, and defend in all courts.

(2) Employ necessary staff or contract for the provision of same.

(3) Prepare planning or feasibility studies or contract for the preparation thereof to assess enhanced services within the NID.

(4) Provide for enhanced services and related programs within the NID.

(5) Contract for the provision of enhanced services within the NID.

(6) Determine the appropriation and expenditure of NID funds, which may include federal, state, and county funds received by the Office of Finance on behalf of the NIDMA; provided that the funds must be administered by the Office of Finance on behalf of, and

as directed by, the NIDMA and in accordance with any specific provisions contained in this chapter and the agreement between the County and the NIDMA. Such funds are to be used in connection with cost of services and to provide for enhanced services within the NID, including, district-wide snow removal, district-wide trash removal, and maintenance of open space.

(7) Solicit in-kind services or financial contributions from any owners of exempt property located within the NID in lieu of special assessment fees. This may include entering into voluntary agreements between the NIDMA and any owners of exempt property for the provision of same.

(8) Designate an optional district advisory committee, to be referred to as the District Advisory Council ("DAC"), for each NID. Each DAC must consist of an odd number of members, between 5 and 9, who are representative of the neighborhood's character, including age, gender, and cultural diversity, and must include at least 2 nonexempt specially-assessed property owners.

(9) Obtain or apply for funds from any source for which the NID may be eligible, including grants and government programs. Any funds obtained from a source other than special assessments of nonexempt property owners must be used to offset the obligations of the nonexempt property owners in the NID.

(10) Engage in any action or advocacy in furtherance of the purposes of this chapter.

(83 Del. Laws, c. 457, § 1.)

## § 3508. Special assessments and liens.

(a) *Special assessments.* — (1) The ordinance by County Council approving a Final NIDP establishes a special assessment on all nonexempt benefited properties within the NID.

(2) County Council has the authority to exempt property within the NID from any special assessment.

(3) Special assessments must be apportioned in a manner that is equitable.

(4) All property subject to a special assessment must benefit directly or indirectly from the enhanced services or related programs provided within the NID under the Final NIDP, but all properties do not need to benefit equally.

(5) Revenue from any special assessment imposed under a Final NIDP must be accounted for by the Office of Finance and utilized by the NIDMA to provide enhanced services and related programs within the NID as set forth in the Final NIDP.

(6) All special assessments authorized under this chapter are calculated using July 1 as the first day of the fiscal year.

(7) Special assessments may be included on the tax bills of properties within the NID under the heading "Neighborhood Improvement District," or as otherwise established in the ordinance creating the NID.

(8) County Council may, by ordinance, impose interest and penalties for failure to timely pay any special assessment and permit the payment of special assessments in installments.

(b) *Liens.* — (1) Special assessments imposed on any benefited property within a NID under a Final NIDP, including any interest and penalties thereon, automatically become a lien on the property upon imposition of the special assessment.

(2) The lien imposed under paragraph (b)(1) of this section:

a. Is subordinate to property tax liens.

b. Is of even priority with any lien arising under § 2901(a)(1)c. through (a)(1)k. of Title 25.

c. Has priority over all other liens and encumbrances on the property.

(3) The lien imposed under paragraph (b)(1) of this section continues as a lien against the property for 10 years from July 1 of the year for which the special assessment was imposed, but if the property remains the property of the person who was the owner at the time the special assessment was imposed, the lien continues until the assessment is collected.

(4) The lien imposed under paragraph (b)(1) of this section is afforded the same treatment as a tax lien under §§ 2902 and 2906 of Title 25.

(5) Upon the filing of a notice of lien by the County with the Prothonotary of the Superior Court, the special assessment imposed upon a property under a Final NIDP is, as of the date of filing the notice of lien, a lien upon all real property that the property owner owns at the time, or at any time after such notice of lien has been filed, located in the County (including all real property situated within any incorporated town or city located within the County).

(6) If any special assessment remains unpaid after the due date, the Chief Financial Officer may institute a proceeding for the enforcement of the lien, with all accrued penalties and interest and all costs, under the monition method for collecting delinquent taxes established under Chapter 87 of this title. Such grounds and buildings, or any part thereof, may be sold by the Sheriff of the County as is provided by law. The Sheriff shall, out of the purchase money of the premises so sold, pay all costs arising from the process and sale to the parties entitled thereto respectively, and shall pay the amount of the special assessment with accrued penalties thereon to the Office of Finance. Any residue of purchase money must be deposited by the Sheriff in accordance with applicable rules and procedures of the Superior Court.

(7) The County may collect delinquent special assessments through any other method by which the County may collect delinquent property taxes or other fees or charges imposed by the County.

(83 Del. Laws, c. 457, § 1.)

## § 3509. Annual audit, report, and meeting; additional audits.

(a) The County Auditor or designee thereof, or an entity identified by County Council must annually audit all funds received and expended by or on behalf of the NIDMA. The audit results must be made electronically available to each owner of property and lessees thereof located in the NID, all county departments as determined by County Council, and the County Council within 6 months after the end of each fiscal year.

(b) The NIDMA must annually provide a report, in electronic format, including financial and programmatic information and a summary of the annual audit findings as required in subsection (a) of this section to the County and to all owners of property and lessees of property located in the NID, by no later than the annual meeting of the NIDMA, which must be held each year no later than February 28.

(c) In addition to the annual audit required under subsection (a) of this section, the County may require additional audits as the County Council, in consultation with the County Auditor or designee thereof, deems appropriate.

(83 Del. Laws, c. 457, § 1.)

## § 3510. Renewal and dissolution of a neighborhood improvement district.

(a) *Renewal of a NID.* — (1) Prior to expiration of a sunset provision of a NID and following a review by County Council of the NID and the enhanced services provided therein, the County Council may extend the NID up to 5 years by voting to extend the ordinance with no changes to the Final NIDP.

(2) Following the review of the NID and the enhanced services provided therein, the County Council may consider an extension of the NID with changes to the Final NIDP. Such changes proposed prior to the end of a sunset provision are not considered amendments to the Final NIDP for purposes of this chapter and may be made through the procedure for adopting a Proposed Final NIDP under § 3505(d) through (f) of this title.

(b) *Dissolution upon expiration of the ordinance.* —

Upon the expiration of the ordinance under the sunset provision required under § 3505(c)(3)d. of this title, unless the NID has earlier been renewed by the Council under subsection (a) of this section, the NID must be dissolved, subject to the provisions of subsections (d) and (e) of this section.

(c) *Request for dissolution.* — (1) A request for dissolution of a NID may be initiated by a nonexempt specially-assessed property owner or the County by means of a petition in a form established by the County. The County Council must hold a hearing to consider the request, consistent with the hearing and approval procedures set forth in this chapter to amend a Final NIDP.

(2) The request must be approved by at least 51% of specially-assessed property owners within the NID.

(d) Upon the dissolution of a NID, subject to the final audit under subsection (e) of this section, the property of the NID will pass as set forth in the county ordinance, with all unencumbered funds, if any, to be divided pro rata among the specially-assessed property owners consistent with applicable law and any agreement between the NIDMA and the County, and the NID will cease to exist.

(e) *Final audit.* —

Upon dissolution of a NID, the County Auditor or designee thereof, or an entity identified by County Council, must perform a final audit, and the audit results must be provided to all property owners and lessees of property in the NID and to County Council within 6 months after dissolution of the NID.

(83 Del. Laws, c. 457, § 1.)

## § 3511. Implementation.

County government shall adopt an ordinance implementing this chapter that provides the procedures and criteria for the establishment and operation of neighborhood improvement districts.

(83 Del. Laws, c. 457, § 1.)

# Part III
# Kent County
## Chapter 41
## Government of Kent County
## Subchapter I
## General Provisions

### § 4101. Definitions.

(a) As used in this part:

(1) “County” means Kent County.

(2) “County government” means the governing body of Kent County.

(b) Any reference in the Delaware Code or any other law of this State to the Receiver of Taxes and County Treasurer for Kent County or the County Comptroller for Kent County shall be construed to mean the Department of Finance of Kent County as created by § 4123 of this title.

(9 Del. C. 1953, § 4101; 77 Del. Laws, c. 247, § 5; 80 Del. Laws, c. 209, § 2.)

### § 4102. Levy Court Districts in Kent County.

(a) Kent County shall be divided into 6 Levy Court Districts, 1 additional Levy Court District is comprised of the County as a whole.

(b) The Levy Court Districts are established as follows:

(1) *First Levy Court District.* — The First Levy Court District shall comprise: All that portion of Kent County, more particularly described by reference to the general highway map of Kent County, dated 1963 (revised January 1, 1978), and Sheet A of said highway map of Kent County, dated 1963 (revised August 1, 1974), prepared by the mapping section of the Division of Highways, bounded by a line beginning at the point on the center line of the boundary between the States of Delaware and Maryland, thence in an easterly direction along the center line of the boundary between New Castle County and Kent County in an easterly direction and northeasterly direction passing U.S. Route 13 and in a northerly direction to a point where the said boundary line between Kent County and New Castle County intersects with the center line of the boundary between the States of Delaware and New Jersey, thence continuing along the center line of the Delaware and New Jersey boundary in a southeasterly direction to a point opposite the center of the mouth of the Leipsic River, thence, in a westerly direction to the mouth of the Leipsic River and, thence with the center of the Leipsic River in a westerly direction to its northern junction with Little Duck Creek in the Town of Leipsic, thence in a southerly direction along the center line of the eastern boundary line of the Town of Leipsic, thence in a westerly direction along the center line of the southern boundary of the Town of Leipsic crossing State Route 9, thence in a northerly direction along the center line of the western boundary of the Town of Leipsic to its intersection with the center of Little Duck Creek, thence with the center of Little Duck Creek in a westerly direction to its point of intersection with the center line of U.S. Route 13, thence with the center line of U.S. 13 in a southerly direction to its point of intersection with County Road 100 (Denneys Road), thence with the center line of County Road 100 (Denneys Road) in a westerly, southerly and westerly direction to its point of intersection with the center line of County Road 104 (Kenton Road), thence along the center line of County Road 104 (Kenton Road), in a southeasterly direction to its intersection with the center of Mudstone Branch, thence with the center of Mudstone Branch in a southwesterly direction and the center of a tributary to Mudstone Branch in a southerly direction (being the northerly boundary of Enumeration District 195 and the easterly boundary of Enumeration District 194 respectively as shown on the Official 1980 Census Map) to a point in the center line of County Road 158, thence with the center line of County Road 158 in a southwesterly direction to its intersection with the center line of State Route 8 where it intersects with the center line of County Road 199, thence with the center line of County Road 199 in a southwesterly and southerly direction, crossing County Road 200, to its intersection with the center line of County Road 73, thence northeasterly with the center line of County Road 73 to its intersection with the center line of County Road 204, thence with the center line of County Road 204 in a southerly direction to its intersection with the center of Issac Branch, thence with the center of Issac Branch in an easterly direction to its intersection with the center of Almshouse Branch as shown on Sheet A of the general highway map of Kent County, Delaware, dated 1963 (revised August 1, 1974), thence with the center of Almshouse Branch in a southerly direction to its intersection with the center line of County Road 52, thence with the center line of County Road 53 in a westerly direction, crossing the intersection of County Road 228, thence in a northwesterly direction to its intersection with the center line of County Road 73 at Hazlettville, thence with the center line of County Road 73 in a northeasterly direction to its intersection with the center line of County Road 101, thence with the center line of County Road 101 in a northerly direction, crossing County Road 200 and State Route 8 to its intersection with the center line of County Road 171, thence with the center line of County Road 171 in a northwesterly direction, crossing the Conrail Railroad tracks to its intersection with the center line of County Road 98 and State Route 11 at Fords Corner, thence with the center line of County Road 98 in a westerly direction to its intersection with the center line of State Route 44, thence in a northwesterly direction along the center line of State Route 44 to its intersection with the center line of State Route 300 at Everetts Corner, thence in a westerly direction along the center line of U.S. Route 300 to its intersection with the center line of the boundary between the States of Delaware and Maryland, thence in

a northerly direction along the center line of the common boundary of Delaware and Maryland through the Blackiston Wildlife Area to the point where the center line of the boundary of the States of Delaware and Maryland intersects with the center line of the boundary of Kent County and New Castle County which is the point and place of beginning.

(2) *Second Levy Court District.* — The Second Levy Court District shall comprise: All that portion of Kent County, partially lying with the City of Dover and bounded as follows: All that portion of Kent County, more particularly described by reference to the general highway map of Kent County, dated 1963 (revised January 1, 1978), and Sheet A of said highway maps of Kent County, dated 1963 (revised August 1, 1974), prepared by the mapping section of the Division of Highways, bounded by a line beginning at a point which is the center line of State Route 8 and County Road 199 and from said point and place of beginning, following the center line of County Road 199 in a southwesterly direction, crossing County Road 200 and continuing in a southerly direction, to its intersection with the center line of County Road 73, thence northeasterly along the center line of County Road 73, to its intersection with the center line of County Road 204, thence southerly along the center line of County Road 204 to its intersection with the center of Issac Branch, thence northeasterly with the center of Issac Branch to its intersection with the center of a tributary to Issac Branch known as Almshouse Branch, thence southerly with the center of Almshouse Branch to its intersection with the center line of County Road 52, thence with the center line of County Road 52 in an easterly direction to its intersection with the western boundary of the Town of Wyoming, thence following the boundaries of the Town of Wyoming in a northerly and easterly direction to its intersection with the center line of Issac Branch, thence in an easterly direction along the center line of Issac Branch, crossing its intersections with County Road 195, Conrail Railroad tracks and County Road 190 (New Burton Road), to its intersection with the center line of the boundary separating the Towns of Wyoming and Camden, thence continuing along the meanderings of Issac Branch, also being the northerly boundary of the Town of Camden, to its intersection with the center line of U.S. Route 13, thence in a southwesterly direction along the center line of U.S. Route 13 to its intersection with the center line of Delaware Route 10 (Lebanon Road), thence in an easterly direction along the center line of Delaware Route 10 (Lebanon Road), to its intersection with the center line of U.S. 113-A, thence in a northerly direction along the center line of U.S. 113-A to a point in the center of the southerly boundary of the City of Dover as of June 30, 1981, which is also a portion of Issac Branch, thence with the southern boundary of the City of Dover in an easterly direction to its point of intersection with U.S. Route 113 (Bay Road), thence with the center line of U.S. Route 113 (Bay Road), in a northerly direction to its intersection with the center line of State Route 8 (Division and Forest Streets), thence westerly along the center line of State Route 8 (Division and Forest Streets) to its intersection with the center line of County Road 156 (Saulsbury Road), thence in a northerly direction along the center line of County Road 156 (Saulsbury Road) to its intersection with the center line of County Road 156 (McKee Road) to the point of its intersection with the center line of County Road 100 (Denneys Road), thence in a southwesterly direction along the center line of County Road 100 (Denneys Road) to its point of intersection with the center line of County Road 104, thence along the center line of County Road 104 in a southeasterly direction to a point in the center of Mudstone Branch, thence with the center of Mudstone Branch in a southwesterly direction and a tributary of Mudstone Branch in a southerly direction (being the northerly boundary of Enumeration District 195 and easterly boundary of Enumeration District 194 respectively, as shown on the Official 1980 Census Map) to a point in the center line of County Road 158, thence with the center line of County Road 158 in a southwesterly direction to its intersection with State Route 8 and County Road 199 which is the point and place of beginning.

(3) *Third Levy Court District.* — The Third Levy Court District shall comprise: All that portion of Kent County, particularly described by reference to the general highway map of Kent County, Delaware, dated 1963 (revised January 1, 1978), and Sheet A of the said highway map of Kent County dated 1963, (revised August 1, 1974), prepared by the mapping section of the Division of Highways, bounded by a line beginning with the center line of the boundary between the States of New Jersey and Delaware at a point opposite the center line of the mouth of the Leipsic River and, thence in a westerly direction to the mouth of the Leipsic River and, thence with the center of the Leipsic River in a westerly direction to its intersection with the eastern boundary of the Town of Leipsic, thence in a southerly direction along the center of the eastern boundary of the Town of Leipsic, thence in a westerly direction along the center line of the southern boundary of the Town of Leipsic crossing State Route 9, thence in a northerly direction along the center line of the western boundary of the Town of Leipsic to its intersection with the center line of Little Duck Creek, thence with the center of Little Duck Creek in a westerly direction to its point of intersection with the center line of U.S. Route 13, thence with the center line of U.S. Route 13 in a southerly direction to its point of intersection with County Road 100 (Denneys Road) thence with the center line of County Road 100 (Denneys Road) in a westerly, southerly and westerly direction to its point of intersection with the center line of County Road 156 (McKee Road), thence southeasterly along the center line of County Road 156 (McKee Road) to its intersection with the center line of County Road 156 (Saulsbury Road), thence southerly along the center line of County Road 156 (Saulsbury Road) to its intersection with the center line of State Route 8 (Forest and Division Streets), thence easterly along the center line of State Route 8 (Forest and Division Streets), to its intersection with the center line of U.S. Route 13, thence southeasterly along the center line of U.S. Route 13 to its intersection with the center line of U.S. Route 113 (Bay Road), thence in a southeasterly direction along the center line of U.S. Route 113 (Bay Road) to its intersection with lands of the United States known as Dover Air Force Base, thence along the center line of said boundary in a northeasterly, southeasterly, easterly, southeasterly, easterly, and northerly direction to a point of its intersection with the center line of County Road 348 (Horsepond Road), thence with the center line of County Road 348 (Horsepond Road) to its intersection again with lands of the United States known as Dover Air Force Base, thence along the center line of said boundary in a northerly, easterly, and southerly direction to a point of intersection with the center line of County Road 348, thence easterly with the center line of County Road 348 to its intersection with State Route 9 at Postles Corner, thence southerly

with the center line of State Route 9 to its intersection with the center line of U.S. Route 113 (Bay Road), thence southerly with the center line of U.S. Route 113 (Bay Road) to its intersection with the center of St. Jones River, thence with the center of St. Jones River in a southeasterly direction to its intersection with Delaware Bay, thence in an easterly direction to the boundary between the States of New Jersey and Delaware in Delaware Bay, thence with the New Jersey-Delaware boundary in a northerly and westerly direction to the point and place of beginning.

(4) *Fourth Levy Court District.* — The Fourth Levy Court District shall comprise: All that portion of Kent County in Little Creek, East Dover, South Murderkill and Milford Hundreds and bounded as follows: Beginning at a point on the boundary between States of New Jersey and Delaware in the Delaware Bay opposite the mouth of the Mispillion River, thence in a westerly direction to the mouth of Mispillion River, which is also on the boundary between Kent and Sussex Counties, thence with the center of the boundary line between Kent and Sussex Counties, in a westerly direction to its intersection with the center line of U.S. Route 13, thence northerly along the center line of U.S. Route 13 to its intersection with the center line of County Road 116, thence with the center line of County Road 116 in an easterly direction to its intersection with the center line of County Road 434, thence northerly and northeasterly with the center line of County Road 434 to its intersection with the center line of County Road 429, thence northerly with the center line of County Road 429 crossing the Conrail Railroad tracks and County Roads 432, 431 and 430 to its intersection with the center line of County Road 35, thence northeasterly with the center line of County Road 35 to its intersection with the center line of County Road 388, thence in a northwesterly direction along the center line of County Road 388 to its intersection with the center line of County Road 33, thence in a northwesterly direction along the center line of County Road 33, to its intersection with the center line of County Road 371, thence in a southwesterly direction along the center line of County Road 371 to its intersection with the center line of U.S. Route 13, thence in a northerly direction along the center line of U.S. Route 13 to its intersection with the center line of U.S. Route 13A, thence in a northwesterly direction along the center line of U.S. Route 13A to a point approximately 755 feet north of its intersection with the center line of County Road 370, said point being the center line of its intersection with Double Run, thence in an easterly direction along the center line of Double Run, also being the northern boundary of Enumeration District 266 as shown on the Official 1980 Census Map, to its intersection with the center line of U.S. Route 13, thence with the center line of U.S. Route 13 in a northerly direction approximately 600 feet to a point in the center line of its intersection with an unnamed tributary of Double Run, said point being approximately 3,250 feet south of its intersection with County Road 30, thence along the center line of said tributary to the center line of its intersection of Double Run which is the southerly boundary of Enumeration District 234 as it appears on the Official 1980 Census Map, thence in an easterly direction along the center line of Double Run across its intersection with County Road 105, to its intersection with the center line of an unnamed tributary to Double Run, as it appears on the Official 1980 Census Map, thence in a northerly direction along the center line of said unnamed tributary, being also a portion of the easterly boundary of Enumeration District 233 as it appears on the Official 1980 Census Map, crossing its intersection with County Road 368 and continuing in a northwesterly direction to the intersection of the center line of an unnamed road at its easternmost point as shown on the Official 1980 Census Map, thence along the center line of said unnamed road in a westerly direction to its intersection with the center line of County Road 105, thence in a northerly direction along the center line of County Road 105 to its intersection with the center line of County Road 30, thence with the center line of County Road 30 in a northeasterly direction for approximately 4,750 feet to its intersection with the center of an unnamed tributary to Voshell Pond, thence northerly and northeasterly along the meanderings of said tributary, Voshell Pond and Tidbury Creek to its intersection with the center line of County Road 357 extended at Lebanon thence with the center line of County Road 357 extended and County Road 357 in an easterly direction to its intersection with the southerly boundary of lands of the United States known as Air Base Housing, thence with the boundary of land of the United States southeasterly, northerly, southeasterly and northeasterly to its intersection with the center line of U.S. Route 113 (Bay Road) thence with the center line of U.S. Route 113 (Bay Road) in a southeasterly direction crossing its intersection with the center line of State Route 9, thence in a southerly direction to its intersection with the center of the St. Jones River, thence with the center of the St. Jones River in a southeasterly direction to its intersection with Delaware Bay at the northerly boundary of the Town of Bowers, thence in an easterly direction to the boundary between the States of New Jersey and Delaware in Delaware Bay, thence with the New Jersey-Delaware boundary in a southerly direction to the point and place of beginning.

(5) *Fifth Levy Court District.* — The Fifth Levy Court District shall comprise: All that portion of Kent County including parts of West Dover, North Murderkill and East Dover Hundreds and bounded as follows: Beginning at a point where the center line of County Road 52 intersects with the center of Almshouse Branch, thence southerly with the center of Almshouse Branch, also being the westerly boundary of Enumeration District 260 as shown on the Official 1980 Census Map, to its intersection with the center of a tributary to Almshouse Branch, thence southeasterly along the center of said tributary to its intersection with the center line of an unnamed road, thence easterly along the center line of said unnamed road, also being the southerly boundary of Enumeration District 260, to its intersection with the center line of County Road 125 thence southerly with the center line of County Road 125 to a power line which is also the northwesterly boundary of Enumeration District 262, thence southwesterly along the Enumeration District boundary to its intersection with the center line of County Road 232, thence southeasterly along the center line of County Road 232 to the center of an unnamed branch of Tidbury Creek being also the westerly boundary of Enumeration District 262, thence southerly along the meanderings of the said branch to its intersection with the center line of County Road 236, thence westerly along the center line of County Road 236 to its intersection with the center line of County Road 235, thence southerly along the center line of County Road 235 to its intersection with the center line of County Road 109, thence southwesterly with the center line of County Road 109 to its

intersection with the center line of County Road 108, thence southeasterly along the center line of County Road 108 to its intersection with the center line of County Road 239, thence southeasterly with the center line of County Road 239 to a point in the center of Hudson Branch, thence in an easterly direction along the center of Hudson Branch, also being the northern boundary of Enumeration District 269 as shown on the Official 1980 Census Map, to the center of a power line, thence southerly along the center of said power line, also being the easterly boundary of Enumeration District 269, to a point in the center line of County Road 239, thence with the center line of County Road 239 in an easterly direction to its intersection with the center line of the Conrail Railroad tracks, thence in a northerly direction along the center line of the Conrail Railroad tracks to a point in the center of Hudson Branch, thence northeasterly and easterly along the center of Hudson Branch, also being the northerly boundary of Enumeration District 268 as shown on the Official 1980 Census Map, to its intersection with the center line of U.S. Route 13, thence in a northerly direction along the center line of U.S. Route 13 to its intersection with the center line of U.S. Route 13 to its intersection with the center line of U.S. Route 13A, thence in a northwesterly direction along the center line of U.S. Route 13A to a point approximately 755 feet north of its intersection with the center line of County Road 370, said point being the center line of its intersection with Double Run, thence in an easterly direction along the center line of Double Run, also being the northern boundary of Enumeration District 266 as shown on the Official 1980 Census Map, to its intersection with the center line of U.S. Route 13, thence with the center line of U.S. Route 13 in a northerly direction approximately 600 feet to a point in the center line of its intersection with an unnamed tributary of Double Run, said point being approximately 3,250 feet south of its intersection with County Road 30, thence along the center line of said tributary to the center line of its intersection with Double Run which is the southerly boundary of Enumeration Districts 233 and 234 as they appear on the Official 1980 Census Map, thence continuing in an easterly direction along the center line of Double Run across its intersection with County Road 105, to its intersection with the center line of an unnamed tributary to Double Run, as it appears on the Official 1980 Census Map, thence in a northerly direction along the center line of said unnamed tributary being also a portion of the easterly boundary of Enumeration District 233 as it appears on the Official 1980 Census Map, crossing its intersection with County Road 368 and continuing in a northwesterly direction to the intersection of the center line of an unnamed road at its easternmost point as shown on the Official 1980 Census Map, thence along the center line of said unnamed road in a westerly direction to its intersection with the center line of County Road 105, thence in a northerly direction along the center line of County Road 105 to its intersection with the center line of County Road 30, thence with the center line of County Road 30 in a northeasterly direction for approximately 4,750 feet to its intersection with the center of an unnamed tributary to Voshell Pond, thence northerly and northeasterly along the meanderings of said tributary, Voshell Pond and Tidbury Creek to its intersection with the center line of County Road 357 extended at Lebanon, thence with the center line of County Road 357 extended and County Road 357 in an easterly direction to its intersection with the southern boundary of the lands of the United States of America, known as Air Base Housing, thence with the boundary of the lands of the United States of America, known as Air Base Housing, thence with the boundary of the lands of the United States of America southeasterly, northerly and northeasterly to its intersection with the center line of U.S. Route 113, thence with the center line of U.S. Route 113 in a southeasterly direction to its intersection with the center line of State Route 9, thence with the center line of State Route 9 in a northerly direction to its intersection with County Road 348, thence with the center line of County Road 348 to its intersection with lands of the United States of America, known as Dover Air Force Base, thence in a northerly, westerly, southerly, westerly, southerly and westerly direction with the lands of the United States to its intersection with the center line of U.S. Route 113, thence with the center line of U.S. Route 113 in a northwesterly direction to its intersection with the southerly boundary of the City of Dover as of June 30, 1981, thence southwesterly along the center line of the City of Dover boundary to a point in the center line of U.S. Route 113-A, thence in a southerly direction to a point where the center line of U.S. Route 113-A intersects with the center line of State Route 10, thence in a westerly direction along the center line of State Route 10, to its intersection with the center line of U.S. Route 13, thence in a northerly direction along the center line of U.S. Route 13 to its intersection with the center line of Issac Branch, which is also the northern boundary of the Town of Camden, thence in a westerly direction along the meanderings of Issac Branch crossing its intersection with County Road 190 (New Burton Road), Conrail Railroad tracks and County Road 195, thence continuing along the northwesterly, westerly and southwesterly boundary of the Town of Wyoming to its intersection with the center line of County Road 52, thence in a westerly direction along the center line of County Road 52, to its intersection with the center of Almshouse Branch which is the point and place of beginning.

(6) *Sixth Levy Court District.* — The Sixth Levy Court District shall comprise: All that portion of Kent County in Mispillion, South Murderkill and North Murderkill Hundreds lying within the following boundaries: Beginning at a point on the center line of the boundary between the State and State of Maryland which intersects with the center line of the boundary between Kent County and Sussex County and continuing in an easterly direction, to the center line of U.S. Route 13, thence northerly along the center line of U.S. Route 13 to its intersection with the center line of County Road 116, thence with the center line of County Road 116, in an easterly direction to its intersection with the center line of County Road 434, thence northerly and northeasterly with the center line of County Road 434 to its intersection with the center line of County Road 429, thence northerly with the center line of County Road 429 crossing the Conrail Railroad tracks and County Roads 432, 431, 430 to its intersection with the center line of County Road 35, thence northeasterly with the center line of County Road 35 to its intersection with County Road 388, thence northwesterly to its intersection with the center line of County Road 33, thence with the center line of County Road 33 in a northwesterly direction to its intersection with the center line of County Road 371, thence in a southwesterly direction along the center line of County Road 371 to its intersection with U.S. Route 13, thence in a northerly direction with the center line of U.S. Route 13 to a point in the center of Hudson Branch, thence westerly and southwesterly along the center of Hudson Branch, also being the northerly boundary of Enumeration District 268

as shown on the Official 1980 Census Map, to its intersection with the center line of the Conrail Railroad tracks, thence southerly along the center line of the Conrail Railroad tracks to its intersection with the center line of County Road 239, thence westerly with the center line of County Road 239 to the center of a power line as shown on the Official 1980 Census Map, thence with the center of said power line in a northerly direction to its intersection with the center of Hudson Branch, thence westerly with the center of Hudson Branch, also being the northerly boundary of Enumeration District 269 as shown on the Official 1980 Census Map, to its intersection with the center line of County Road 239, thence northwesterly along the center line of County Road 239 to its intersection with the center line of County Road 108, thence northwesterly along the center line of County Road 108 to its intersection with the center line of County Road 109, thence northeasterly with the center line of County Road 109 to its intersection with the center line of County Road 235, thence northerly along the center line of County Road 235 to its intersection with the center line of County Road 236, thence easterly along the center line of County Road 236 to its intersection with the center of an unnamed branch of Tidbury Creek being also the westerly boundary of Enumeration District 262 as shown on the Official 1980 Census Map, thence northerly along the meanderings of said branch to its intersection with the center line of County Road 232, thence northwesterly along the center line of County Road 232 to a power line which is also the northwesterly boundary of Enumeration District 262 as shown on the Official 1980 Census Map, thence northeasterly along the northwesterly boundary of Enumeration District 262 to its intersection with the center line of County Road 125, thence northerly along the center line of County Road 125 to its intersection with the center line of an unnamed road, thence in a westerly direction along the center line of said unnamed road, also being the southerly boundary of Enumeration District 260 as shown on the Official 1980 Census Map, to its intersection with the center of a tributary of Almshouse Branch, thence northwesterly along the center of said tributary to its intersection with the center of Almshouse Branch, thence northerly along the center of Almshouse Branch, also being the westerly boundary of Enumeration District 260 as shown on the Official 1980 Census Map, to its intersection with the center line of County Road 52, thence westerly with the center line of County Road 52 to its intersection with the center line of County Road 73 at Hazlettville, thence in a northeasterly direction along the center line of County Road 73 to its intersection with the center line of County Road 101, thence in a northerly direction along the center line of County Road 101 crossing State Route 8 to its intersection with County Road 171, thence in a northwesterly direction along the center line of County Road 171 to its intersection with the center line of State Route 11 and the center line of County Road 98, thence southwesterly with the center line of County Road 98 crossing County Road 175 to its intersection with the center line of State Route 44, thence northwesterly with the center line of State Route 44 to its intersection with the center line of State Route 300 at Everett's Corner, thence in a westerly direction along the center line of State Route 300 to the center line of the boundary between the State and the State of Maryland, thence in a southerly direction following the center line of the boundary between the State and the State of Maryland through the Town of Marydel and continuing in a southerly direction to the point where the said boundary intersects with the center line of the common boundary of Kent County and Sussex County, which is the point and place of beginning.

(7) *Seventh Levy Court District.* — The boundaries of the Seventh Levy Court District shall comprise all of Kent County.

(22 Del. Laws, c. 50, § 1; 24 Del. Laws, c. 52, § 1; Code 1915, § 1013; 31 Del. Laws, c. 13, § 2; 40 Del. Laws, c. 126, § 1; Code 1935, §§ 1147, 1184; 44 Del. Laws, c. 85, § 1; 9 Del. C. 1953, § 301; 55 Del. Laws, c. 85, § 3A; 55 Del. Laws, c. 197, § 1; 63 Del. Laws, c. 190, § 1.)

## § 4103. Election, qualifications and term of officials of the county governing body.

(a) In Kent County, the governing body shall consist of 7 elected officials, 1 from each of the Representative Districts as were in effect at the election of 1980, with certain minor changes in the lines so as to comply with the 1 man 1 vote requirement, as described in § 4102(b) of this title, together with 1 elected official from the County as a whole. Each such official must be a resident of the Levy Court District from which such official is elected, and must have been such for at least 1 year before such official is elected, be a citizen of the United States, be a qualified elector of the County and be elected by the qualified voters of the District. The term of office shall be for 4 years. The Levy Court commissioners elected in the election of 1980 from the old 30th, 31st and 34th Representative Districts, now the First, Third and Fifth Levy Court Districts, shall continue to serve out the unexpired portion of their terms and shall represent the 1st, 3rd and 5th Levy Court Districts until the first Tuesday in January, 1985. Levy Court commissioners for the old 32nd, 33rd and 35th Representative Districts, now the Second, Fourth and Sixth Levy Court Districts, together with the Levy Court commissioner for the County as a whole, shall be elected for 4-year terms at the election in 1982. At each subsequent election, the Levy Court commissioners elected shall serve for a 4-year term.

(b) In the event that a primary election is necessary in any Levy Court District, only the qualified voters of the said Levy Court District in which such primary election is held, shall be eligible to vote in said primary.

(c) The office of an elected official shall become vacant upon the elected official's death, resignation, removal from office in any manner authorized by law, or forfeiture of the office. The elected official's office will be forfeited if at any time during the elected official's term of office the elected official:

(1) Lacks any qualification for the office prescribed by this chapter or other law of the State, including residence in the district from which the elected official was elected;

(2) Violates any express prohibition of this title; or

(3) Is convicted of a crime involving moral turpitude.

(d) If the office of an elected official becomes vacant, a temporary official shall be appointed by the majority vote of the remaining body of elected officials until the special election provided for in § 303 of this title shall have been completed. The special election shall be held within 6 months of the occurring of the vacancy. The county government shall prescribe by ordinance the procedures for the special election, which procedures shall not be inconsistent with the provisions of Title 15. The Kent County Chairperson of each political party that had State ballot status at the preceding general election, or, if there is no Kent County Chairperson, the State Chairperson of that political party, shall without primary, be eligible to file with the Kent County Department of Elections the name of 1 eligible candidate for the vacant office. The President of the county government shall issue a Writ of Election to the Kent County Department of Elections, which shall conduct the special election in accordance with the county ordinance.

(Code 1852, §§ 66, 68; 21 Del. Laws, c. 22, § 4; Code 1915, §§ 1037, 1056; 31 Del. Laws, c. 13, § 4; Code 1935, §§ 1185, 1224; 9 Del. C. 1953, § 304; 55 Del. Laws, c. 197, § 2; 56 Del. Laws, c. 103, § 5; 56 Del. Laws, c. 241, § 1; 63 Del. Laws, c. 190, § 2; 70 Del. Laws, c. 293, § 1; 73 Del. Laws, c. 63, § 1.)

## § 4104. Salaries of elected officials of the county governing body.

(a) In Kent County each of the elected officials of the county governing body shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court.

(b) The salaries of the officials shall be paid in equal semimonthly installments in Kent County by warrants according to the form prescribed by the county government.

(c) Such officials shall not receive any other compensation for services performed by them, or any of them, in the office of elected official.

(21 Del. Laws, c. 22, § 5; 22 Del. Laws, c. 50, § 5; 22 Del. Laws, c. 53, § 1; 22 Del. Laws, c. 54, § 5; 22 Del. Laws, c. 276, § 1; 22 Del. Laws, c. 279, § 1; 23 Del. Laws, c. 39, § 1; 27 Del. Laws, c. 50; Code 1915, §§ 1018, 1040, 1049; 28 Del. Laws, c. 76, § 6; 31 Del. Laws, c. 13, § 8; 40 Del. Laws, c. 126, § 6; Code 1935, §§ 1152, 1189, 1199; 45 Del. Laws, c. 110, § 1; 45 Del. Laws, c. 122, §§ 1, 2; 46 Del. Laws, c. 298, § 1; 9 Del. C. 1953, § 309; 49 Del. Laws, c. 290, § 1; 50 Del. Laws, c. 421, § 1; 51 Del. Laws, c. 277; 52 Del. Laws, c. 174, § 8; 53 Del. Laws, c. 222, § 9; 54 Del. Laws, c. 23, § 4; 54 Del. Laws, c. 215, § 10; 55 Del. Laws, c. 85, §§ 3A, 3B; 57 Del. Laws, c. 692, § 1; 61 Del. Laws, c. 506, § 1; 65 Del. Laws, c. 163, § 3; 67 Del. Laws, c. 255, § 1.)

## § 4105. Redistricting required.

It shall be the mandatory duty of the Kent County Levy Court to redistrict the Kent County Levy Court Districts described at § 4102(b) of this title after each regular United States decennial census commencing with the 1990 United States decennial census. Nothing herein shall operate to change the number of Levy Court Districts established at § 4102(a) of this title.

(67 Del. Laws, c. 235, § 1.)

## § 4106. Redistricting procedures.

(a) Whenever a changing of the boundaries of the Levy Court Districts is required by § 4105 of this title, the Levy Court shall, within 60 days after the official reporting of the federal decennial census by the President to Congress, appoint 7 electors of the County who shall comprise a Redistricting Commission. The members of the Redistricting Commission shall be appointed by the Levy Court, 1 from each of the Levy Court Districts of the County, and shall not be employed by the County in any other capacity. No more than 4 of the members shall be affiliated with the same political party.

(b) Within 90 days of being appointed, the Redistricting Commission shall file with the President of the Levy Court, or the President's designee, a report containing a recommended plan for adjusting the Levy Court District boundaries of Districts 1 through 6 to comply with the following specifications:

(1) Each District shall contain contiguous territory;

(2) Each District shall contain as nearly as possible the same number of inhabitants and no District shall deviate in population more than 15% from the average population for the 6 Districts, the average to be obtained by dividing the number 6 into the total population of the County according to the most recent decennial census.

The 7th District shall constitute all of Kent County.

(c) The report of the Redistricting Commission shall include a map and a written description of the Levy Court Districts recommended and shall be in the form of a proposed ordinance. Once filed with the President of the Levy Court, or the President's designee, the report shall be treated as an ordinance introduced by a member of the Levy Court.

(d) The procedure for the Levy Court's consideration of the report shall be the same as for other ordinances, and the Levy Court is empowered to modify the recommended plan subject, however, to the standards set forth in subsection (b) of this section.

(e) The Levy Court shall adopt a redistricting ordinance within 60 days after the report of the Redistricting Commission has been filed with the President of the Levy Court or the President's designee. If a redistricting ordinance has not been adopted by the Levy Court within 60 days of filing the report by the Redistricting Commission, the redistricting plan as submitted by the Redistricting Commission shall become effective as if it had been adopted by the Court.

(f) The Levy Court is authorized to make those adjustments to the new Levy Court boundaries approved by enactment of County Ordinance No. 91-07 which have been identified by the Kent County Department of Elections as being necessary to bring their boundaries

into harmony with new House and Senate District boundaries; provided, however, that no change shall be made which would have the effect of moving the total population of any Levy Court District above or below its legally required maximum or minimum population.

(67 Del. Laws, c. 235, § 1; 68 Del. Laws, c. 225, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4107. Early termination of terms of office.

The term of any Levy Court Commissioner (except the commissioner representing the 7th Levy Court District which is comprised of the County as a whole) which would not otherwise terminate on the first Tuesday in January following the election of Commissioners immediately following a redistricting shall terminate on such date, if, as a result of redistricting of the Levy Court, a Commissioner is placed in the same District as another member of the Levy Court whose term does not expire at the same time, otherwise the Commissioner shall continue to represent the new District in which the Commissioner resides until the expiration of the term of office.

(67 Del. Laws, c. 235, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4108. County Administrator.

(a) *Appointment; qualifications; compensation. —*

The county government shall appoint a County Administrator by the affirmative vote of a majority of the members of the county government, for a term not exceeding 4 years, and fix the Administrator's compensation. The County Administrator shall be appointed solely on the basis of the Administrator's executive and administrative qualifications. At the time of the Administrator's contractual starting date the Administrator must be a resident of Kent County, and, during the Administrator's tenure of office, the Administrator shall at all times reside within Kent County.

(b) *Removal from office. —*

The county government may remove the County Administrator from office before the expiration of the Administrator's term, but only in accordance with the following procedures:

(1) By affirmative vote of a majority of all the members of the county government upon adoption of a preliminary resolution which shall state the reason for the removal. A copy of the preliminary resolution shall be delivered promptly to the County Administrator.

(2) Within 10 days after a copy of the preliminary resolution is delivered to the County Administrator, the Administrator may file with the county government a written request for a public hearing. This hearing shall be held at a special county government meeting not later than 30 days after the request is filed. The County Administrator may file with the county government a written reply not later than 5 days prior to the hearing. The County Administrator shall be permitted to appear in person at the hearing in lieu of a full written reply to the charges made and may present the Administrator's case with witnesses as the circumstances may require.

(3) The county government may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all the members at any time after 10 days from the date when a copy of the preliminary resolution was delivered to the Administrator, if the Administrator has not requested a hearing.

(c) *Acting county administrator. —*

The county government may designate a qualified acting county administrative officer to exercise the powers and perform the duties of the County Administrator during the latter's absence or disability.

(d) *Powers and duties. —*

The County Administrator is the chief administrative officer of the County. The County Administrator shall attend the meetings of the county government and be responsible to the county government for the proper administration of all the affairs of the County which the county government has authority to control. Under the direction of the county government, the County Administrator has the following powers and duties, except as otherwise provided by this chapter, law, or governing personnel regulations:

(1) The County Administrator shall appoint and, when the Administrator deems it necessary, suspend or remove any county employees and appointive administrative officers with the exception of the Director of Finance. The Administrator may authorize any administrative officer who is subject to the Administrator's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) The County Administrator shall direct and supervise the administration of all departments, offices and agencies of the County.

(3) The County Administrator has the right to take part in discussion at all county government meetings but may not vote.

(4) The County Administrator shall see that all laws, provisions of this chapter, and acts of the county government, subject to enforcement by the County Administrator or by officers subject to the Administrator's direction and supervision, are faithfully executed.

(5) The County Administrator shall prepare and submit a proposed annual budget and capital program to the county government, with the Administrator's recommendations and shall execute the budget as finally adopted.

(6) The County Administrator shall make reports, at least once monthly, to the county government in regard to matters of administration, and keep the county government fully advised as to the financial condition of the county government.

(7) The County Administrator shall submit to the county government and make available to the public a complete report on the finances and administrative activities of the County within 60 days after the end of each fiscal year.

(8) The County Administrator shall familiarize himself or herself in detail with the affairs of all officers, departments, boards, and agencies and make recommendations and reports to the county government at such times as the government may direct. The County Administrator may order an audit of any office or agency at any time by the independent auditor engaged by the county government.

(9) The County Administrator shall perform such other duties as are specified in this chapter or as may be required by the county government.

(83 Del. Laws, c. 144, § 1; 70 Del. Laws, c. 186, § 1.)

## Subchapter II

## Powers and Duties

### § 4110. General powers; county government procedures; ordinances.

(a) In addition to the powers specifically enumerated by statutes in this title and elsewhere, the government of Kent County shall assume and have all powers which under the Constitution of the State it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute, including, but not limited to, any powers conferred prior to July 3, 1985, the General Assembly upon Kent County, or upon the Levy Court of Kent County, or upon the Levy Court Commissioners of Kent County, or upon the officers or employees of Kent County, or upon counties generally, or upon Levy Court Commissioners generally or upon the Levy Court generally.

(b) This grant of power includes the power to:

(1) Fix a tax rate upon the assessed valuation of all real property in Kent County, subject to assessment by the County;

(2) Fix an additional tax rate upon the assessed valuation of all real property, subject to assessment, located in unincorporated areas in Kent County for the limited purpose of providing financial support for public safety services to be provided by the County, or its agents to unincorporated areas of Kent County; and

(3) Add surcharges on any application for a building permit issued by the county:

a. In an amount not to exceed .5% of the construction value applicable to said building permit application to provide funding for volunteer fire companies; and

b. In an amount not to exceed 1.25% of the construction value applicable to said building permit application to provide funding for the local share of any school capital construction program having received a Certification of Necessity from the Secretary of Education of the Department of Education pursuant to § 7510 of Title 29, as amended; provided however, this surcharge shall not be applicable to an application for a building permit having a construction value of $30,000 or less and such application is made after the issuance of the original certificate of occupancy.

(c) This grant of power does not include the power to enact private or civil law concerning civil relationships, except as incident to the exercise of an expressly granted power, and does not include the power to define and provide for the punishment of felonies.

(d) This grant of power does not repeal or modify the doctrine of sovereign immunity as it now exists so as to broaden or increase the limitations of legal actions against Kent County.

(e) This grant of power includes the right of the Levy Court to receive moneys or grants from this State or the United States; and the Levy Court may enter into agreements or contracts with this State or the United States relating to such moneys or grants. The Levy Court may enact resolutions providing for programs and services for purposes for which the federal or state funds are granted to the County and to spend out of County funds any share required as a condition of the grants.

(f) The powers of Kent County shall be construed liberally in favor of the County, and specific mention of particular powers in this title shall not be construed as limiting in any way the general powers stated herein.

(g) (1) The county government shall meet regularly. The place and dates of such meetings shall be established by the county government as a part of the rules of procedure adopted for the conduct of its meetings. Special meetings may be held on the call of the President of the county government or of a majority of the members of the county government in accordance with rules adopted as a part of the rules of procedure of the county government.

(2) The county government shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings which shall be a public record.

(3) Voting, except on procedural motions, shall be on roll call and the ayes and nays shall be recorded in the journal. A majority of all members of the county government shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the county government. No action of the county government, except as otherwise provided in this title, shall be valid or binding unless adopted with the concurrence of a majority of all of the members of the county government.

(h) All actions of the county government which shall have the force of law shall be by ordinance.

(i) (1) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance, except those relating to the budget or appropriation of funds and those relating to the adoption or revisions of the County Code, shall contain more than 1 subject which shall be clearly expressed in its title. The enacting clause shall be “The County of Kent hereby ordains.” Any ordinance

which repeals or amends an existing ordinance or part of the County Code shall set out in full that part of the ordinance, sections or subsections to be repealed or amended, and shall indicate the matter to be omitted by enclosing it in brackets and shall indicate new matter by underscoring or by italics.

(2) An ordinance may be introduced by any member at any regular or special meeting of the county government. Upon introduction of any ordinance, the Clerk of the county government shall distribute a copy to each elected official of the county governing body and to the County Administrator; shall file a reasonable number of copies in the office of the Clerk of the county government and such other public places as the county government may designate; shall, in 1 newspaper in general circulation in the county, publish in bold type the ordinance or the title thereof together with a notice setting out the time and place for a public hearing thereon by the county government; and shall produce a sufficient number of copies thereof to meet reasonable demands therefor by interested citizens and others who may be affected by such ordinance. The public hearing shall follow the publication by at least 7 days, may be held separately or in connection with a regular or special county government meeting and may be adjourned from time to time, and all persons interested shall have a reasonable opportunity to be heard. The county government may make rules governing the holding of public hearings. After the public hearing, the county government may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance which is not embraced within the title of the ordinance, the county government may not adopt it until the ordinance or its amended sections have been subjected to all of the procedures hereinbefore required in the case of a newly-introduced ordinance. As soon as practicable after adoption of any ordinance, the Clerk of the county government shall number the ordinance and have it, or its title, published again, 1 time in a newspaper of general circulation in the County, together with a notice of its adoption.

(3) Except as otherwise provided in this title, every adopted ordinance shall become effective immediately unless the ordinance itself stipulates a different date.

(j) To meet a public emergency affecting life, health, property or the public peace, the county government may adopt emergency ordinances, but such ordinances may not levy taxes, grant, review or extend a franchise, or authorize the borrowing of money except to issue emergency notes as provided by law. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or at such later time as it may specify. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(k) The Clerk of the county government shall authenticate by his or her signature and record in full, in a properly indexed book kept for that purpose, all ordinances and resolutions adopted by the county government.

(l) The surcharges otherwise added by paragraph (b)(3) of this section shall not be added to building permits applied for by an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code [26 U.S.C. § 501(c)(3)] which provides owner-occupied housing to low and moderate income households by rehabilitating residential properties and reselling said properties without profit, nor to the Delaware State Housing Authority nor to any applicant funded by the Delaware State Housing Authority.

(65 Del. Laws, c. 101, § 1; 65 Del. Laws, c. 450, § 3; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 92, § 1; 75 Del. Laws, c. 408, §§ 1, 2, 4.)

## § 4111. Creation of debt; authorization, procedures, debt limitation and anticipation borrowing.

(a) The Levy Court shall exercise all powers of Kent County in connection with the creation of debt, and shall have the power to authorize the issuance of bonds and notes of Kent County to finance the cost of any object, program or purpose for which Kent County, or any officer, department, board or agency thereof, is, by this title or by any other law, authorized to raise, appropriate or expend money, or for the implementation and performance of functions, programs and purposes specified in this title or in any other law applicable to Kent County; provided, however, that the Levy Court shall not have authority to create or to authorize the creating of any bonded indebtedness for any of the following purposes: The payment of any operating expenses; the payment of any judgment resulting from the failure of the County to pay any item of operating expense; or the payment for any equipment or any public improvements of a normal life of less than 3 years. The foregoing limitations shall not apply should the Levy Court unanimously declare the existence of an emergency due to public calamity.

(b) The powers conferred by this subchapter shall be in addition to and not in substitution for or in limitation of the powers conferred by any other law. Bonds and notes may be issued under this subchapter for any object or purpose for which Kent County is by this chapter or any other law authorized to raise or appropriate or expend money notwithstanding that any other law may provide for the issuance of bonds or notes for the same or like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds and notes may be issued under this subchapter notwithstanding any debt or other limitation prescribed by any other law, and the mode and manner of procedure for the issuance of bonds and notes and the adoption of the ordinance authorizing issuance of the bonds or notes under this chapter need not conform to the provisions of any other law or any other provision of this chapter.

(c) Bonds and notes issued pursuant to this subchapter shall be authorized by ordinance of the Levy Court approved by not less than $^{5}/_{7}$ of all of the members thereof. Each such ordinance shall state in brief and general terms the objects or purposes for which the debt

is to be incurred and the maximum aggregate principal amount of debt to be incurred for each such object or purpose. Such ordinance, or a subsequent resolution of the Levy Court, shall specify, or may delegate authority to the County Administrator to determine, with respect to any bonds and notes; their date or dates; their maturity; the security therefor, if any, including a pledge of the County's full faith and credit, federal or state grants or other revenues or property; provisions for either serial or term bonds; sinking fund or other reserve fund requirements, if any; provisions for redemption prior to maturity, if any, with or without premium; the interest rate or rates and any limitations with respect thereto or the manner of their determination; the times and place or places within or without this State for the payment of principal and interest; the method of execution; the form; provisions for the consolidation of debt authorized for several objects and purposes pursuant to 1 or more ordinances into 1 consolidated issue; provisions for the receipt and deposit or investment of any good faith deposit; provisions for the public or private sale of the debt instruments; and such other terms and conditions as the Levy Court may determine to be in the best interest of the County. Debt incurred by the County pursuant to this subchapter may be represented by uncertificated obligations of the County which may be applicable to bonds and notes which are permitted to be issued under this subchapter, and the Levy Court by resolution may determine, or it may delegate authority to the County Administrator to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(d) The Levy Court may pledge the full faith and credit of the County to secure the payment of the principal, interest and premium, if any, on any debt incurred pursuant to this subchapter and/or may pledge any other security therefor. With respect to any debt to which the County's full faith and credit is pledged, the authorizing ordinance and the debt instruments issued shall contain the declaration that the principal, interest and premium, if any, are to be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount and that the full faith and credit of the County are pledged for payment. The Levy Court shall annually levy and collect a tax ad valorem upon all property taxable by the County sufficient to pay the principal of and interest on each bond or note secured by the County's pledge of its full faith and credit as such principal and interest become due; provided, however, such tax may be reduced by the amount of other moneys appropriated and actually available for such purpose or provided for by local or special assessments or local service taxes.

(e) The outstanding general obligation bonded indebtedness of Kent County secured by the full faith and credit of the County may not exceed 12 percent of the assessed valuation of all real property subject to taxation within the County. The outstanding bonded indebtedness of the County not secured by the County's full faith and credit is without limitation as to amount.

(f) The proceeds from the sale of bonds and notes issued under this subchapter shall be used only for the object or purpose or objects or purposes specified in the ordinance authorizing such bonds or notes for the payment of the principal of and interest on temporary loans made in anticipation of the sale of such bonds or notes. If for any reason any part of such proceeds are not applied to or are not necessary for such purposes, such unexpended part of such proceeds shall be applied to the payment of the principal of or interest on such bonds or notes no later than the earliest date on which such bonds or notes may be called for redemption without premium.

(g) All bonds, notes or other evidences of indebtedness issued pursuant to this subchapter shall recite that they are issued for a purpose or purposes as specified in the authorizing ordinance or resolution and that they are issued pursuant to the terms of the Constitution and laws of this State and the County. Upon the sale and delivery of any such bonds, notes or other evidences of indebtedness against payment, such recitals shall be conclusive as to the right, power and authority of the County to issue the same and of the legality, validity and enforceability of the obligation of the County to pay principal of and interest on the same. In case any County official whose signature or a facsimile thereof shall appear on any such bonds, notes or other evidences of indebtedness shall cease to be such officer before the delivery of such obligation, or in case the seal of the County which appears on any such obligation shall change before the delivery of such obligation, such signature, seal or facsimile thereof shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office and as if such seal had not changed. The legality, validity and enforceability of such bonds, notes or other evidences of indebtedness shall never be questioned in any court of law or equity by the County or any person after the issuance, execution and delivery against payment for the same. All such bonds, notes and other evidences of indebtedness are hereby declared to have all the qualities and incidents of negotiable instruments under the Commercial Code of this State.

(h) Notwithstanding any limitations herein to the contrary, the Levy Court may borrow in the anticipation of the collection of taxes or other revenues budgeted for any purposes for which taxes are levied.

(43 Del. Laws, c. 106, § 1; 47 Del. Laws, c. 252, § 1; 9 Del. C. 1953, § 4111; 49 Del. Laws, c. 340; 54 Del. Laws, c. 53; 55 Del. Laws, c. 123; 56 Del. Laws, c. 83, § 1; 62 Del. Laws, c. 297, § 1; 65 Del. Laws, c. 101, § 2.)

## § 4112. Employment by county officers of a chief deputy and clerks [Repealed].

(31 Del. Laws, c. 13, § 16; 32 Del. Laws, c. 67, § 1; Code 1935, § 1191; 44 Del. Laws, c. 100, § 2; 9 Del. C. 1953, § 4112; 51 Del. Laws, c. 103, § 1; repealed by 83 Del. Laws, c. 144, § 3, effective Sept. 10, 2021.)

## § 4113. Mileage and expenses of county officers and employees.

The county government may pay mileage, as provided in § 9121 of this title, to county officers, including deputies and clerks, for travel in the necessary conduct of county business as well as expenses actually incurred in the carrying out of such county business. This section shall not be construed to allow the payment of mileage to officials, deputies or clerical assistants to or from their home and their place of employment.

(Code 1935, § 1191; 44 Del. Laws, c. 100, § 2; 9 Del. C. 1953, § 4113.)

## § 4114. Employment of Courthouse janitor [Repealed].

(31 Del. Laws, c. 13, § 16; 32 Del. Laws, c. 67, § 1; Code 1935, § 1231; 9 Del. C. 1953, § 4114; repealed by 81 Del. Laws, c. 296, § 1, effective July 1, 2018.)

## § 4115. Removal of appointed officers; appeal.

(a) The county government may remove from office any person appointed by it, for sufficient cause shown, and after due hearing.

(b) Any person so removed may appeal from the decision of the county government to the Superior Court, which shall, upon such appeal, either affirm or overrule the decision of the county government. If the decision be overruled, the person appealing shall be remitted to that person's office or employment and shall be entitled to all arrears of compensation.

(31 Del. Laws, c. 13, § 17; Code 1935, § 1234; 9 Del. C. 1953, § 4115; 70 Del. Laws, c. 186, § 1.)

## § 4116. Sinking fund.

The county government may create a sinking fund for public buildings, public improvements, and public works generally, and for such purposes may open a special bank account in the name of the Receiver of Taxes and County Treasurer of the County and may deposit therein such sums at such times as the county government deems advisable. The money in such fund shall be paid out upon warrants as other county moneys are paid out according to law, at such times and in such amounts and for the above stated purposes or for any of such purposes, as the county government shall determine.

(9 Del. C. 1953, § 4116; 56 Del. Laws, c. 103, § 1.)

## § 4117. County Engineer and other employees; appointment and duties.

(a) The County Administrator may appoint a County Engineer for such term, and at such compensation as the Administrator deems proper. The County Engineer shall be responsible for and have general supervision over all public engineering work in the County including, but not limited to, the construction of sanitary sewers, trunk lines, sewerage disposal plants, sanitary sewer systems in general and maintenance thereof, drainage, construction, lighting service and other projects of a public nature.

(b) The County Administrator may employ, for such periods and for such compensation as the Administrator deems proper, such draftsmen, rodmen, and assistants as, in its opinion, are necessary to carry on such public work.

(9 Del. C. 1953, § 4117; 56 Del. Laws, c. 103, § 2; 83 Del. Laws, c. 144, § 3.)

## § 4118. Dumping of garbage, rubbish, ashes or other waste material.

The county government may regulate or prohibit the dumping of garbage, rubbish, ashes or other waste material in or upon land within the County outside of any incorporated municipality and, for that purpose, enact and from time to time amend or rescind, suitable ordinances, rules or regulations.

(9 Del. C. 1953, § 4118; 56 Del. Laws, c. 103, § 3.)

## § 4119. Rivers, creeks, or small runs; widening, straightening.

(a) In case the county government, upon the advice of the County Engineer, deems it advisable to widen, straighten or alter the course of any part of any small run, river or creek in the County; the county government and the County Engineer may enter upon any land for the purpose of surveying and locating the changes necessary to widen, straighten or alter the course of any part of such river, run or creek.

(b) Any person owning land which it will be necessary to procure for such purpose may dedicate the same for such purpose, and the county government may enter into negotiations with the owner or owners for that purpose, and may secure the necessary conveyance or dedication of the land. The county government may also purchase the land from the owner or owners thereof upon such terms as the county government deems advisable. All conveyances and dedications shall be to the State, for the use of Kent County, and all conveyances, dedications and other papers relating to the acquirement of such land for such purpose shall be and remain a part of the records of the office of the County Engineer.

(9 Del. C. 1953, § 4119; 56 Del. Laws, c. 103, § 4.)

## § 4120. Emergency dispatch center.

The county government may establish and maintain an emergency dispatch center to be used in connection with fire, ambulance, rescue services, and other emergencies which occur throughout the County.

(9 Del. C. 1953, § 4120; 58 Del. Laws, c. 488.)

## § 4121. State or federal aid and programs.

The Kent County government may receive money or grants from the State or the United States of America and may enter into agreements or contracts with the State or the United States relating to such money or grants. The Kent County government is authorized to enact resolutions providing for programs and services for the purposes for which said federal funds are granted to the Kent County government and to spend out of county funds any share required as a condition of said grants.

(59 Del. Laws, c. 287, § 1.)

## § 4122. Investment powers.

The county government by its Levy Court may authorize and order the investment of idle funds kept as surplus and not reasonably required to be maintained on a demand basis in such manner as recommended by the Director of Finance. Investment of county funds shall be in accordance with general state law and the ordinances of the county government governing such investments. All interest or investments and moneys so earned from these idle or surplus funds shall accrue only to the benefit of the County of Kent.

(62 Del. Laws, c. 152, § 1; 80 Del. Laws, c. 209, § 3.)

## § 4123. Department of Finance.

(a) *Department of Finance, general.* — There shall be a Department of Finance under the direction of the County Administrator which shall be responsible for the administration of the budgeting, accounting, purchasing, treasury, and other financial affairs of Kent County.

(b) *Director of Finance.* — The Director of Finance shall be the head of the Department of Finance. The Levy Court shall appoint the Director of Finance and fix the Director's compensation.

(c) *Former functions, duties, and powers of the County Comptroller.* — The Department of Finance, under the authority of the Director of Finance, shall perform all of the functions assigned to and possess all of the duties and powers previously held by the County Comptroller, including all of the following:

(1) Audit the accounts of the county government.

(2) Countersign all warrants drawn by order of the county government for the payment of money.

(3) During January and July of each year, audit, inspect, and examine the books, accounts, papers, records, and dockets of the clerk of the peace, sheriff, recorder, register of wills, and other county officers and confirm the amount paid to the County in fees.

(4) Annually examine the books of all public institutions within the County that are supported wholly or in part by the County and issue a written report to the county government containing the result of such examination.

(5) Keep a record of accounts, in which shall be entered all items of expenditure, all warrants drawn, to whom made payable, and for what particular work or other cause. All written contracts made by the county government shall be deposited in the Department's custody and the Department shall enter all such contracts upon its records.

(6) Before countersigning any warrant, inquire into and carefully investigate. To fulfill this duty, the Director of Finance may issue summons for the attendance of witnesses, compel the production of books and papers pertinent to the transaction, administer oaths and affirmations, and ascertain the truth of the transaction inquired into.

(7) Audit and mark "correct" all bills before allowance by the county government. No bill shall be passed by the county government without such an endorsement by the Department. If the Director refuses to allow any item of expenditure, to countersign any warrant, or to endorse any bill, the Director shall immediately transmit to the county government the Director's reasons for refusal in writing. The county government shall consider the Director's reasons for refusal and may, by a vote of the majority of the elected officials of the county government, overrule the Director's refusal. If the Director's refusal is overruled, the Director shall allow the expenditure and countersign the warrant, or endorse the bill in conformity with the judgment of the majority of the elected officials of the county government.

(8) Adopt and use a facsimile of the Director's signature as provided by Chapter 54 of Title 29.

(77 Del. Laws, c. 247, § 1; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 209, § 4.)

## § 4124. Receiver of Taxes and County Treasurer functions.

(a) *Functions.* — The Department of Finance shall perform all of the functions heretofore assigned to the Receiver of Taxes and County Treasurer under this title.

(b) *Assessment of property.* — The Department of Finance shall assess all property subject to taxation by the County and maintain appropriate records. In the performance of its functions relating to the assessment of property, the Department of Finance shall exercise the assessment functions heretofore assigned to the Board of Assessment. To this end, not later than April 1 of each year, the Department of Finance shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The Department shall determine the form of the assessment roll and shall not be bound by provisions of law heretofore in effect as to form. The Board of Assessment Review or its representatives shall sit in its offices during each secular day from April 1 through April 15 of each year to hear appeals and make additions, alterations or corrections to the assessment that may be necessary. After the closing of the hearings, the settlement of all appeals, and the adjustment of the assessment lists, the Board of Assessment Review shall certify to the Department of Finance a true and correct assessment roll for the year. Not later than May 1 of each year, the Director of Finance shall certify to the county government the total value of all property in the County and the total value of all property which has been assessed and is subject to taxation.

The Department of Finance shall determine by rule, the form, number of copies, and other details concerning the keeping of records relating to assessment of real property and improvements thereupon. The Department of Finance shall develop a suitable system for the identification of all real property within the County, both that which is subject to taxation and that which is exempt from taxation. Such system shall be in a form which readily permits the subdivision of property or the reassembly of property without loss of control thereof for purposes of assessment.

(c) *Collection of taxes.* — The Department of Finance shall be responsible for the collection of all taxes, whether current or delinquent, and to that end shall perform all of the responsibilities with respect to collection and enforcement of collection vested prior to April 27, 2010, in the Receiver of Taxes and County Treasurer. To this end, the Department of Finance shall be entitled to the use of and shall be responsible for the application of all processes of law available prior to April 27, 2010, to the Receiver of Taxes and County Treasurer, provided that the Department shall not be required to make any routine reports to the Levy Court concerning the collection of taxes other than a monthly statement in appropriate summary form and the annual report.

(d) *Records of tax delinquencies.* — The Department of Finance shall maintain a suitable record of the payment or nonpayment of taxes with respect to each parcel of real property in the County. Not later than 60 days after the close of each fiscal year, the Department shall prepare a summary of the outstanding taxes which have been levied and not collected for each of the preceding 2 years or for such longer period as the Levy Court shall prescribe. Such summary shall be fully supported by detailed records of delinquent taxes.

(e) *Collection of taxes other than those upon real estate.* — The Department of Finance shall perform all responsibilities heretofore assigned to any office, department, or board of Kent County in the assessment and collection and enforcement of capitation taxes and any other taxes heretofore levied in Kent County.

(77 Del. Laws, c. 247, § 3; 78 Del. Laws, c. 142, § 3.)

### § 4125. Board of Assessment Review.

(a) Levy Court, by ordinance, shall establish a Board of Assessment Review. The Board of Assessment Review shall consist of 7 members. The Levy Court shall appoint one member from each of the Levy Court Districts. The term and residency requirements of each member shall be determined by Levy Court. Levy Court shall provide compensation for members and for the chairperson in amounts established by Levy Court in the county annual operating budget ordinance. Furthermore, Levy Court shall provide for the filling of vacancies on the Board of Assessment Review.

(b) The Board of Assessment Review shall perform all functions as established by Levy Court through ordinance and as otherwise provided in this title.

(78 Del. Laws, c. 142, § 2; 83 Del. Laws, c. 402, § 1.)

## Subchapter III

## Authorized Appropriations

### § 4131. Fire companies.

The county government shall appropriate annually, and on May 1 of each year shall pay, the sum of $250 to each regularly organized and motorized fire company in Kent County, as certified by the Secretary of Kent County Volunteer Firemen's Association, for the maintenance and upkeep of their fire equipment.

(Code 1935, § 1194A; 45 Del. Laws, c. 116, § 1; 9 Del. C. 1953, § 4131.)

### § 4132. Kent County Volunteer Firemen's Association.

(a) The government of Kent County shall appropriate annually and on October 1 of each year shall pay to the Kent County Volunteer Firemen's Association, the sum of $13,500 to be distributed by the Firemen's Association equally to each of the regularly organized and motorized fire companies, members of the Association, for the maintenance and upkeep of the fire equipment of the member companies.

(b) The county government shall appropriate annually and on October 1 of each year shall pay to the Kent County Volunteer Firemen's Association the sum of $800 to be used for the maintenance of radio equipment used in connection with volunteer fire fighting apparatus throughout the County.

(39 Del. Laws, c. 4, § 1; 40 Del. Laws, c. 127; Code 1935, § 1194; 45 Del. Laws, c. 115; 47 Del. Laws, c. 8, § 1; 9 Del. C. 1953, § 4132; 49 Del. Laws, c. 330; 51 Del. Laws, c. 46; 56 Del. Laws, c. 87.)

### § 4133. Ambulance service.

(a) So long as any of the organizations listed in this subsection shall have an ambulance and provide ambulance service for the benefit of the residents of Kent County, the county government shall appropriate annually and on July 1 in each year shall pay the sum of $750 to such organization for the maintenance of its ambulance:

(1) Robbins Hose Company, No. 1, at Dover;

(2) David C. Harrison Post, No. 14, Inc., American Legion, at Smyrna;

(3) Camden-Wyoming Fire Company.

(b) So long as Carlisle Fire Company, of Milford, shall have an ambulance and provide ambulance service for the benefit of the residents of Kent and Sussex Counties, the county government may annually appropriate for and pay to such Company the sum of $250 for the maintenance of its ambulance.

(41 Del. Laws, c. 104, § 1; 43 Del. Laws, c. 103, § 1; 43 Del. Laws, c. 104, § 1; 47 Del. Laws, c. 83, § 1; 9 Del. C. 1953, § 4133; 51 Del. Laws, c. 146; 55 Del. Laws, c. 386.)

### § 4134. Rescue service.

The county government shall appropriate the sum of $750 annually to each of the regularly organized and motorized fire companies in Kent County for the maintenance of their rescue squad. Such sum shall be paid by the county government to each of the fire companies entitled thereto, certified by the Secretary of the Kent County Volunteer Firemen's Association on July 1 of each year.

(9 Del. C. 1953, § 4134; 53 Del. Laws, c. 160.)

### § 4135. Cities and towns; aid for maintenance of public dumping areas.

The county government may negotiate with the proper authorities of the various cities and towns, and with private individuals or contractors within the County as to the establishment of public dumping areas open to the use of the general public, and further the county government may expend a sum not to exceed $75,000 as cost to the County in the purchase of land for said disposal or in the various contracts with the towns, cities and private individuals or contractors. The county government may tax the general public of Kent County annually to defray the cost and expenses of the public dumping areas.

(9 Del. C. 1953, § 4135; 56 Del. Laws, c. 234, § 1.)

### § 4136. Appropriations for community services.

The county government may appropriate each year for community services of general benefit to the County and its residents such amounts as it may deem just and proper.

(9 Del. C. 1953, § 4136; 58 Del. Laws, c. 354, § 1.)

### § 4137. Appropriations for county records and assessments.

The county government may determine whether additional methods or procedures relating to county records and assessments are required for Kent County, and may direct the payment therefor from the general funds of the County.

(9 Del. C. 1953, § 4137; 58 Del. Laws, c. 354, § 2.)

### § 4138. Sewer authorization loans.

The County is authorized to lend, to sewer districts created by the County, funds, other than general funds of the County or funds dedicated to purposes other than the construction or improvement of sewers in the County, any available funds on terms deemed commercially reasonable by the Levy Court.

(64 Del. Laws, c. 441, § 1.)

## Subchapter IV

## Personnel Administration

### § 4151. Personnel Administration Board.

The county government shall, by ordinance, establish a Personnel Board and determine the membership, terms, qualifications, compensation and duties of said Board.

(9 Del. C. 1953, § 4151; 56 Del. Laws, c. 103, § 11; 66 Del. Laws, c. 332, § 1.)

## Subchapter V

## Parks and Recreation Commission

### § 4152. Establishment by county government.

The county government may, by ordinance, establish a Parks and Recreation Commission and determine the membership, terms, qualifications and compensation of said Commission.

(9 Del. C. 1953, § 4152; 57 Del. Laws, c. 748; 66 Del. Laws, c. 322, § 1.)

### § 4153. Functions.

The Parks and Recreation Commission shall perform the following functions:

(1) Plan, supervise and conduct a comprehensive and coordinated program of cultural and physical recreation for the County;

(2) Plan, supervise and conduct a program of parks and park related activities for all of the parks of the County including any suburban parks which may hereafter be established pursuant to Chapter 6 of this title;

(3) Promote, and, to the extent feasible, execute a cooperative recreational program with the public schools, other public agencies, private agencies, and local citizen recreation councils;

(4) Develop plans for parks, recreation areas, and for the preservation of open space within the County and recommend to the county government appropriate courses of action in regard thereto;

(5) Employ by and with the consent of the county government trained personnel in recreational programs and staff, including a Director of Parks and Recreation;

(6) Make and enforce rules and regulations relating to the protection, care, and use of the areas it administers. No rules and regulations shall become effective until such rules and regulations have been adopted by the county government after a public hearing thereon, the time and place of which at least 30 days' notice shall have been given by 1 publication in a newspaper of general circulation in the County. Such notice should state the place at which copies of the rules and regulations may be obtained;

(7) Recommend to the county government such fees as it deems reasonable for the use of such facilities as may be provided in the areas it administers, and the county government may establish and collect such fees from the users of the said areas.

(9 Del. C. 1953, § 4153; 57 Del. Laws, c. 748.)

## § 4154. Acquisition of land.

The county government may acquire land or any interest therein by purchase or gift within the County that it deems advisable in furtherance of the purposes of this subchapter, but in no event shall the county government have the right to eminent domain for these purposes.

(9 Del. C. 1953, § 4154; 57 Del. Laws, c. 748.)

## § 4155. Power to borrow money and issue bonds.

The county government may borrow money upon the faith and credit of the County as provided in this subchapter for the purpose of acquiring land and property in furtherance of the purposes of this subchapter and for the purpose of securing the payment of such sum to issue bonds in such denominations and bearing such rate of interest and in such form as the county government shall deem expedient. The interest upon said bonds shall be payable semiannually in each and every year after the date of issuance thereof.

(9 Del. C. 1953, § 4155; 57 Del. Laws, c. 748.)

## § 4156. Terms of bonds.

The county government shall decide upon and determine the form and time or times of maturity of the bonds provided that no bonds shall be issued for a term exceeding 25 years. The bonds may or may not at the option of the county government be made redeemable at such time or times before maturity, at such price or prices and under such terms and conditions as may be fixed by the county government prior to the issuance of the bonds. The bonds shall contain such other provisions, not inconsistent with the requirements of this subchapter, as the county government may deem expedient.

(9 Del. C. 1953, § 4156; 57 Del. Laws, c. 748.)

## § 4157. Execution and record of bonds.

The bonds shall be prepared under the supervision of the county government and shall be signed by the Receiver of Taxes and County Treasurer, the President of the county government and the clerk of the peace, and shall be under the seal used by the county government. Such officers shall execute the bonds when directed by the county government to do so. The Receiver of Taxes and County Treasurer and the county government shall keep a record of the bonds.

(9 Del. C. 1953, § 4157; 57 Del. Laws, c. 748.)

## § 4158. Sale of bonds.

The bonds or any part thereof may be sold when and as the county government by resolution determines and until sold shall remain in custody of the Receiver of Taxes and County Treasurer. Whenever in the judgment of the county government it is deemed advisable that any part or all of the bonds shall be sold, the county government may sell and dispose of the same at public sale after having advertised the same in the public press at least once each week for at least 2 weeks. No commission or other compensation shall be charged or paid to any members of the county government for effecting the sale or negotiation of such bonds.

(9 Del. C. 1953, § 4158; 57 Del. Laws, c. 748.)

## § 4159. Principal and interest payments; taxes.

(a) The principal of and interest on the bonds shall be payable when due and payable from money appropriated by Kent County.

(b) The county government in fixing the rate of taxation shall annually provide for a sum equal to the amount of such bonds in addition to the amount necessary to pay the interest upon the unpaid bonds as before provided, which shall, when collected and paid to the Receiver of Taxes and County Treasurer be set apart by him or her in a separate account to be opened for that purpose; and the Receiver of Taxes and County Treasurer shall apply the said sum annually to the payments of such part of said loan and interest thereon as may from time to time become due under the provisions of this subchapter.

(9 Del. C. 1953, § 4159; 57 Del. Laws, c. 748; 59 Del. Laws, c. 345, § 1; 63 Del. Laws, c. 142, § 20; 70 Del. Laws, c. 186, § 1.)

## § 4160. Deposit and use of proceeds of sale of bonds.

All money received from the sale of any or all of such bonds, after the payment of the charges and expenses connected with the preparation and sale thereof, shall be deposited by the Receiver of Taxes and County Treasurer in any depository bank in the State, to

the credit of the county government in a separate account and payments thereof shall be made in the same manner as other payments by the county government. No part of the money thus obtained, except as in this section provided, shall be used for any other purpose than those stated in this subchapter and the purchasers or holders of the bonds shall not be bound to see to or be affected by the application of the money realized from the sale of the bonds.

(9 Del. C. 1953, § 4160; 57 Del. Laws, c. 748; 59 Del. Laws, c. 345, § 2.)

## § 4161. Violations of rules and regulations.

(a) Whoever violates the rules and regulations promulgated by the county government shall be fined not less than $10 nor more than $50 and costs for each offense, or imprisoned not more than 30 days, or both.

(b) All rules and regulations of the county government shall have the effect of law and shall be published in at least 2 newspapers of general circulation in the territory to be affected, at least 30 days prior to the time the rule or regulation becomes effective, except in case of an emergency when the county government shall give such advance notice as it deems necessary or desirable.

(c) Justices of the peace shall severally throughout the State have jurisdiction of violations of the rules and regulations of the county government with the condition that any person arrested for such violation shall be taken before the closest available magistrate in the County where such violation is alleged to have occurred.

(9 Del. C. 1953, § 4161; 57 Del. Laws, c. 748.)

# Part III
# Kent County
## Chapter 43
## Pension for County Employees [Repealed].

### § 4301. Short title [Repealed].

(9 Del. C. 1953, § 4301; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4302. Definitions [Repealed].

(9 Del. C. 1953, § 4302; 51 Del. Laws, c. 164; 55 Del. Laws, c. 59; 56 Del. Laws, c. 297, § 2; 59 Del. Laws, c. 282, § 1; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4303. Eligibility for retirement benefits; reduction because of other benefits [Repealed].

(9 Del. C. 1953, § 4303; 51 Del. Laws, c. 164; 55 Del. Laws, c. 213, § 1; 59 Del. Laws, c. 282, § 2; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4304. Service in armed forces of the United States or in National Guard [Repealed].

(9 Del. C. 1953, § 4304; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4305. Retirement age; early retirement; mandatory retirement [Repealed].

(9 Del. C. 1953, § 4305; 51 Del. Laws, c. 164; 55 Del. Laws, c. 213, § 2; 59 Del. Laws, c. 282, § 3; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4306. Retirement pension benefits [Repealed].

(9 Del. C. 1953, § 4306; 51 Del. Laws, c. 164; 59 Del. Laws, c. 282, § 4; 65 Del. Laws, c. 313, § 1; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4307. Disability [Repealed].

(9 Del. C. 1953, § 4307; 51 Del. Laws, c. 164; 59 Del. Laws, c. 282, § 5; 64 Del. Laws, c. 75, § 1; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4308. Submission of pension data to county government for determination of amount required to be raised by taxation [Repealed].

(9 Del. C. 1953, § 4308; 51 Del. Laws, c. 164; 59 Del. Laws, c. 282, § 6; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4309. Pension benefits; time and manner of payment; list of pensioners; optional forms [Repealed].

(9 Del. C. 1953, § 4309; 51 Del. Laws, c. 164; 59 Del. Laws, c. 282, § 8; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4310. Retirement of employee [Repealed].

(9 Del. C. 1953, § 4310; 51 Del. Laws, c. 164; 59 Del. Laws, c. 282, § 9; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4311. Preservation of pension records by Receiver of Taxes and County Treasurer [Repealed].

(9 Del. C. 1953, § 4311; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4312. Arbitration Commission [Repealed].

(9 Del. C. 1953, § 4312; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4313. Notice to employee of qualification for pension; resolution of county government [Repealed].

(9 Del. C. 1953, § 4313; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4314. Effect of receipt of pension or other benefits under other law [Repealed].

Repealed by 59 Del. Laws, c. 282, § 10, eff. Mar. 27, 1974.

### § 4315. Restrictions upon other employment by pensioner [Repealed].

(9 Del. C. 1953, § 4315; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4316. Exemption of pension benefits from taxation, attachment; assignability of benefits [Repealed].

(9 Del. C. 1953, § 4316; 51 Del. Laws, c. 164; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4317. Funding [Repealed].

(59 Del. Laws, c. 282, § 7; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4318. Trustee [Repealed].

(59 Del. Laws, c. 282, § 7; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4319. Voluntary contributions [Repealed].

(59 Del. Laws, c. 282, § 7; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4320. Vested right to benefits [Repealed].

(59 Del. Laws, c. 282, § 7; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4321. Forfeitures for cause [Repealed].

(59 Del. Laws, c. 282, § 7; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4322. Effect of amendments [Repealed].

(59 Del. Laws, c. 282, § 7; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

### § 4323. Enactment of pension plan by ordinance [Repealed].

(66 Del. Laws, c. 147, § 1; repealed by fulfillment of former 9 Del. C. § 4323, eff. Apr. 5, 1988.)

# Part III
# Kent County
## Chapter 44
## Building Permits and Construction Codes

### § 4401. Definitions.

As used in this chapter:

(1) “Building” means any structure, building, edifice or part thereof;

(2) “Chief of Building Inspections” means the Chief of Building Inspections for Kent County as appointed by the Kent County Levy Court or the Chief’s designee or the Acting Chief of Building Inspections for Kent County as appointed by the Kent County Levy Court or the Acting Chief’s designee;

(3) “Construction” means alteration, removal, demolition, addition, repair or construction of any new or old building.

(4) “Person” means any architect, builder, contractor, repairman, agent, partner or corporation as well as an individual;

(9 Del. C. 1953, § 4401; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 1; 70 Del. Laws, c. 186, § 1.)

### § 4402. Application for construction permits.

(a) No person shall construct or cause to have constructed or commence the construction of a building without first filing with the Chief of Building Inspections an application in writing for such construction and obtaining a permit therefor. Such application shall be made on forms prescribed by the Chief of Building Inspections and shall contain such information as the Chief of Building Inspections shall prescribe.

(b) Permits shall be issued in the name of the owner of the building.

(c) No such permit shall be issued to a nonresident person engaging in business as a contractor, as defined in Chapter 25 of Title 30, in Kent County until the Chief of Building Inspections is satisfied that § 2502(b) of Title 30 has been complied with to the extent applicable.

(9 Del. C. 1953, § 4402; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 4; 60 Del. Laws, c. 293, § 1.)

### § 4403. Reports on permits issued by incorporated cities or towns.

Building inspectors or other officers authorized by law to issue permits for construction of any buildings, in any incorporated city or town in Kent County, shall report to the Board of Assessment of Kent County, within 10 days of the date of finalization and/or date of issuance of a certificate of occupancy, every permit issued by them respectively. Every permit shall specify the estimated cost of the proposed construction, and date the permit was finalized and/or a certificate of occupancy was issued.

(9 Del. C. 1953, § 4403; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 2; 68 Del. Laws, c. 369, § 1.)

### § 4404. Inspections.

The Chief of Building Inspections or the Chief’s designee shall make the necessary inspections to see that this chapter is complied with and may order or compel the suspension of any work that is not in compliance with this chapter.

(9 Del. C. 1953, § 4404; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 3; 70 Del. Laws, c. 186, § 1.)

### § 4405. Fees.

The fees for issuing permits shall be prescribed by the county government.

(9 Del. C. 1953, § 4405; 52 Del. Laws, c. 164; 56 Del. Laws, c. 103, § 8; 56 Del. Laws, c. 241, §§ 2, 3; 66 Del. Laws, c. 131, § 1.)

### § 4406. Records.

(a) The Chief of Building Inspections shall keep a careful and comprehensive record of applications, permits issued, inspections made, reports rendered and of notices or orders issued.

(b) The Chief of Building Inspections shall retain on file copies of all permits issued.

(c) All records may be open to public inspection at the discretion of the Chief of Building Inspections, but shall not be removed from the office of the Chief of Building Inspections.

(9 Del. C. 1953, § 4406; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 4.)

### § 4407. Permits required.

(a) A building permit shall be obtained from the county government for any new construction of any kind including additions or alterations to existing structures.

(b) Before issuing a building permit, the county government may require the builder or homeowner to have a permit for waste disposal from the Division of Environmental Control.

(c) The county government may by resolution waive the requirement for a building permit under specified terms and conditions as may be established by the county government but no waiver shall be permitted where the value of the work to be done exceeds $500.

(d) A building permit shall be required for the construction, erection, placement or alteration of any smokestack, tree, silo, flagpole, elevated tank, power line, radio or television tower, antenna, building, structure or other improvement to real property which:

(1) Is greater than 200 feet in height above ground level;

(2) Is greater in height than an imaginary trapezoidal shape beginning at the end of a runway of a public use airport, at an initial width of 50 feet and extending outward and upward at a slope of 100:1 for a distance of 20,000 feet, to a width of 3000 feet at its ending point;

(3) Is located within the approach runway area of each public use airport; or

(4) Otherwise acts as an obstruction to the operation of aircraft as those terms are defined in Chapter 6 of Title 2 or by Federal Aviation Regulations (FAR) Part 77 [14 C.F.R. Part 77].

(e) Such building permit for each such object or structure will not be issued until such time as the Department through the Office of Aeronautics has approved the application. The Department of Transportation, through the Office of Aeronautics, shall respond to the county or municipality having land use jurisdiction, regarding any objections it has to the issuance of a building permit, within 30 days of receipt of such permit for review.

(9 Del. C. 1953, § 4407; 52 Del. Laws, c. 164; 56 Del. Laws, c. 103, § 9; 59 Del. Laws, c. 199, § 1; 70 Del. Laws, c. 575, § 20.)

## § 4408. Notice of violation.

(a) Whenever the Chief of Building Inspections is satisfied that a building is being constructed without a permit first being issued therefor, the Chief of Building Inspections may serve a written notice or order upon the person responsible therefor, directing discontinuance of the construction until a permit has been obtained from the Chief of Building Inspections.

(b) No person having been served with such notice or order shall fail within 5 days to comply with the requirements thereof.

(9 Del. C. 1953, § 4408; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 4.)

## § 4409. Occupancy.

Any building that has been constructed without a permit may not be occupied, maintained or used by any person except with permission of the Chief of Building Inspections.

(9 Del. C. 1953, § 4409; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 4.)

## § 4410. Penalties.

Penalties for offenses in this chapter of the Building Code of Kent County or of violations of this chapter shall be as prescribed by ordinance of the county government of Kent County.

(9 Del. C. 1953, § 4410; 52 Del. Laws, c. 164; 66 Del. Laws, c. 131, § 2.)

## § 4411. County government to appropriate necessary funds.

The county government shall annually appropriate to the Chief of Building Inspections such funds that are necessary to carry out this chapter.

(9 Del. C. 1953, § 4411; 52 Del. Laws, c. 164; 60 Del. Laws, c. 245, § 4.)

## § 4412. Jurisdiction of Superior Court.

The Superior Court shall have jurisdiction over offenses committed under this chapter.

(9 Del. C. 1953, § 4412; 52 Del. Laws, c. 164.)

## § 4413. Exceptions.

This chapter, except for § 4403 of this title, shall not apply to structures and properties located within any incorporated city or town in Kent County which has adopted and enforces a building code and building permit procedures.

(9 Del. C. 1953, § 4413; 57 Del. Laws, c. 475.)

## § 4414. Enforcement of construction codes; remedies.

(a) The enforcement of any code or regulation adopted by the county government under the authority of this chapter shall be as prescribed by the county government by ordinance.

(b) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used, in violation of this chapter or of any regulation or provision of any regulation or change thereof, enacted or adopted by the county government, the attorney thereof, or any owner of real estate within the district in which such building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(60 Del. Laws, c. 605, § 2; 65 Del. Laws, c. 304, § 1.)

## § 4415. Construction using public financial assistance.

No building or structure shall be constructed using public financial assistance in a manner that violates Chapter 42 of Title 31, and no occupancy or use permit shall be issued unless such building or structure complies with Chapter 42 of Title 31.

(78 Del. Laws, c. 368, § 2.)

# Part III
# Kent County
## Chapter 45
## Sewers and Water
### Subchapter I
### General Provisions

### § 4501. Definitions.

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

(1) "County" means Kent County;

(2) "Revenue bonds" means bonds to the payment of which all or any part of the revenues derived from the operation of any water system are pledged in accordance with this chapter;

(3) "Service charges" means rents, rates, fees or other charges charged or collected under § 4509 of this title;

(4) "Water system" means all real and personal property necessary or useful in the collection, acquisition, treatment, purification and distribution of water, together with any principal or ancillary rights appurtenant thereto.

(9 Del. C. 1953, § 4501; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

### § 4502. Powers of County.

In addition to the other powers which it has, the County may, under this chapter:

(1) Plan, construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better or extend any water system, and acquire by gift, purchase, or the exercise of the right of eminent domain, land or rights in land in connection therewith;

(2) Operate and maintain any water system and furnish the services and facilities rendered or afforded thereby;

(3) Issue its negotiable or nonnegotiable bonds to finance, either in whole or in part, the cost of the planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any water system, pledging the full faith and credit of the County to the punctual payment of the bonds and the interest thereon;

(4) Pledge to the punctual payment of the bonds and the interest thereon an amount of the revenues derived from the operation of such water system (including the revenues of the existing facilities, if any, comprising a water system which is being improved, bettered, extended or acquired, and the revenues to be derived from any improvements, betterments, extensions, thereafter constructed or acquired), or of any part of any such water system, sufficient to pay, on either equal or priority basis, the bonds and interest as the same become due and create and maintain reasonable reserves therefor, which amount may consist of all or any part or portion of such revenues;

(5) Accept from any authorized agency of the state or federal government, or from persons, firms, or corporations, grants or contributions for the planning, construction, acquisition, lease, reconstruction, improvement, betterment or extension of any water system and enter into agreements with such agency respecting such loans and grants;

(6) Enter into and perform a contract or contracts with any person, municipality, or agency of the state or federal government for the sale, purchase, treatment, purification, transmission or distribution of water.

(9 Del. C. 1953, § 4502; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

### § 4503. Water system within city or town.

No water system, or any part thereof, shall be constructed or maintained within the boundaries of any city or town situated in the County without the consent of such city or town, except that transmission lines or mains may be constructed or maintained without consent. The consent shall be given only by an ordinance adopted by the council or other governing body of the city or town in question, but once given shall be irrevocable.

(9 Del. C. 1953, § 4503; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

### § 4504. Bonds; authorization, amount, terms, sale and interest rate.

(a) The planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system may be authorized under this chapter and bonds may be authorized to be issued under this chapter to provide funds for such purposes by resolution of the county government.

(b) The county government, in determining the cost of acquiring or constructing any water system, may include all costs and estimated costs of the issuance of the bonds, all planning, engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this chapter.

(c) The bonds shall bear interest at such rates, may be in 1 or more series, may bear such dates, may mature at such times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution or subsequent resolutions provide.

(d) Any bonds issued pursuant to this chapter shall be sold at public sale and the county government shall advertise that they will receive bids at such place or places as may be named in said advertisement for such bonds as may be determined by the county government.

(e) Sufficient notice of sale of said bonds shall be deemed to have been given if said notice shall have been published at least once 10 or more days before the date of sale, in at least 1 newspaper published in the County and in a financial journal published in the City of New York, and no other publication of such notice of sale shall be necessary, and said bonds may be sold upon such terms and conditions as may be set forth in such notice of sale, provided that the purchase price shall be not less than par and accrued interest.

(f) In the event that the bonds so offered for sale are not bid for, or if no legally acceptable bid is received for the bonds, they may be sold under the direction of the county government at private sale upon the best terms they can obtain for the same, provided that they shall not be sold at private sale for less than par and accrued interest and at a rate which shall not exceed 6% per annum.

(g) Without limiting the power granted the county government as to the terms and conditions which they may set forth in a notice of sale, the county government may request bids and award the bonds upon any of the following conditions:

(1) Bidders may be invited to name a single rate of interest for the issue or issues contained in the notice of sale, in which event the bonds can be awarded to the bidder offering to take all of the bonds at the lowest rate of interest, and as between bidders naming the same lowest rate of interest, the amount of premium will determine the award; or

(2) Bidders may be invited, with respect to a single issue, a combined issue or several other issues of bonds included in 1 notice of sale, to name 1 rate of interest for part of the bonds (having the earliest maturities) and another rate or rates for the balance of the bonds, and may permit a different interest rate for each maturity, or may limit the number of rates which may be proposed. If proposals are so invited, the bonds should be awarded to the bidder offering to purchase the bonds at the lowest net interest cost to the County, the net interest cost to be determined by computing the aggregate amount of interest payable on the bonds from their date to their respective maturities and by deducting from such aggregate amount the premium offered, if any.

(h) Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the county government determines may be issued to the purchasers of bonds sold pursuant to this chapter.

(i) The rate of interest may be determined in advance of sale, or the bonds may be offered for sale at a rate of interest to be fixed by the purchaser of such bonds.

(9 Del. C. 1953, § 4504; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4505. Authorized signatures on bonds; validity of issuance.

(a) Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the County.

(b) The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the planning, acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the water system for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(9 Del. C. 1953, § 4505; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4506. Payment of bonds, faith and credit of County; tax levy.

The full faith and credit of the County is pledged to the payment of any bonds issued by the County under this chapter. The county government shall annually appropriate to the payment of such bonds and the interest thereon, the amounts required to pay such bonds and interest as the same become due and payable. Notwithstanding any other law, the county government may levy an ad valorem tax, without limitation as to rate or amount, upon all property taxable by the County to raise the moneys necessary to meet any such appropriation. Section 4111 of this title is hereby repealed to the extent said section is inconsistent with this chapter.

(9 Del. C. 1953, § 4506; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4507. Authorization of covenants in bonds.

(a) In the event that the County issues bonds, the resolutions authorizing the issuance of such bonds may contain covenants as to:

(1) The purpose to which the proceeds of sale of the bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the revenue of the water systems, the revenues of which are pledged to the payment of such bonds, including the creation and maintenance of reserves;

(3) The issuance of other or additional bonds payable from the revenues of such water systems;

(4) The operation and maintenance of such water systems;

(5) The insurance to be carried thereon and the use and disposition of insurance moneys;

(6) Books of account and the inspection and audit thereof;

(7) The terms and conditions upon which the holders of the bonds or any proportion of them, or any trustee therefor, shall be entitled to the appointment of a receiver by the appropriate court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the water systems, operate and maintain them, prescribe service charges therefor, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the County itself might do.

(b) This chapter and any such resolution or resolutions shall be a contract with the holders of the bonds, and the duties of the County and of the county government and officers under this chapter, and any such resolutions shall be enforceable by any bondholder, by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

(9 Del. C. 1953, § 4507; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4508. Service charges; amount and application.

(a) If the County issues bonds under this chapter, the county government shall prescribe and collect reasonable service charges for the services and facilities rendered or afforded by the water systems, the revenues of which are pledged to the payment of such bonds, and shall revise such service charges from time to time whenever necessary.

(b) The service charges prescribed shall be such as will procure revenue at least sufficient:

(1) To pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; and

(2) To provide for all expenses of operation and maintenance of such water systems, including reserves therefor.

(c) The service charges when collected shall be applied to the payment of the bonds and interest and to the expenses of such operation and maintenance in accordance with the resolutions authorizing the bonds.

(9 Del. C. 1953, § 4508; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4509. Power to make charges; liability of users; computation of rates.

(a) The county government may charge and collect rents, rates, fees or other charges (in this chapter sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, any water system. Such service charges may be charged to and collected from any person contracting for such connection or use or service or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with a water system, or into which water from a water system may enter directly or indirectly, and the owner or occupant, or both of them, of any such real property shall be liable for and shall pay such service charges to the County at the time when and place where the county government, by ordinance, rule or regulation, determines that such charges are due and payable.

(b) Such service charges shall, as near as the county government deems practicable and equitable, be uniform throughout the area served by the water system, and may be based or computed either on the consumption of water on or in connection with the real property, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on a front footage basis, or on other factors determining the type, class and amount of use or service of the water system, or on any combination of any such factors.

(9 Del. C. 1953, § 4509; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4510. Penalties for failure to pay charges.

(a) In the event that a service charge with regard to any parcel of real property is not paid as and when due, interest shall accrue and be due to the County on the unpaid balance at the rate of 1 percent per month until the service charge, and the interest thereon, shall be fully paid to the County.

(b) In the event that any service charge with respect to any parcel of real property is not paid as and when due, the county government may, in its discretion, enter upon such parcel and cause the connection thereof leading directly or indirectly to the water system to be cut and shut off until the service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon is fully paid.

(9 Del. C. 1953, § 4510; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4511. Lien of service charges on real estate.

(a) In the event that any service charge is not paid as and when due, the unpaid balance thereof and any interest accrued thereon shall be a lien on the parcel of real property with regard to which the service charge was made. The lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person, except the lien of taxes.

(b) If any service charge or any part of a service charge remains unpaid at the end of 2 years after the due date, the county government shall institute proceedings for the enforcement of the lien, and levy the service charge as an assessment with interest thereon accrued, and

all costs thereon, upon the grounds and buildings with regard to which a service charge was made. The grounds and buildings, or any part thereof, shall be sold by the Sheriff of the County, after the giving of notice in the manner provided for other sales of real estate by the Sheriff, and a deed from the Sheriff shall convey to the purchaser all of the right, title and interest of the owner of the grounds and buildings.

(c) The Sheriff shall, out of the purchase money of the premises so sold, pay all costs arising from the process and sale to the parties entitled thereto respectively, and shall pay the amount of the service charge with accrued interest thereon to the county government. The residue of the purchase money shall be immediately deposited to the credit of the owner or owners of the property so sold in a state or national bank having its principal office in the State.

(9 Del. C. 1953, § 4511; 55 Del. Laws, c. 255; 63 Del. Laws, c. 142, § 21; 71 Del. Laws, c. 232, § 1.)

## § 4512. Water lien docket.

The Prothonotary shall, under the supervision and direction of the county government, prepare a docket to be known as "The Kent County Water Lien Docket" [Docket] in which shall be recorded the liens for service charges. The Docket shall be prepared at the expense of the county government in substantially the same form as the judgment docket for Kent County, and contain in the back thereof an index according to the name of the owner against which such lien has been assessed. No water lien shall be valid unless duly recorded as provided in this section. All water liens duly recorded in the Docket shall continue in full force and effect until the liens have been satisfied by payment, and when such liens are satisfied by payment the Prothonotary, acting under the supervision and direction of the county government, shall satisfy the record by entering thereon the date of final payment and the words "satisfied in full." The Prothonotary, for the use of the county government, shall receive a fee of $0.50 for each satisfaction so entered.

(9 Del. C. 1953, § 4512; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4513. Water consumption statement and other information for county government or its designated agent.

(a) Each municipality or public corporation, or other person, owning or operating any system of water distribution serving 3 or more parcels of real property in the County shall, from time to time after request therefor by the county government or its designated agent, deliver to the county government or its designated agent a statement showing the amount of water supplied to every parcel of real property as shown by the records of the municipality or public corporation or other person. The statements shall be delivered to the county government or its designated agent within 10 days after request is made for them, and the county government or its designated agent shall pay the reasonable cost of preparation and delivery of such statements.

(b) The occupant of every parcel of property, the water for which is supplied by any water system of the County, shall, upon request therefor by the county government or its designated agent, furnish to the county government or its designated agent information as to the amount of water consumed by such occupant or in connection with such parcel and the number and kind of water outlets, and plumbing fixtures or facilities on or in connection with such parcel and the number of persons working or residing therein.

(9 Del. C. 1953, § 4513; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4514. Discontinuance of water supply for failure to pay service charge.

Each city or town or other public corporation owning or operating any water distribution system serving 3 or more parcels of real property in the County, and every other person owning or operating any such system may enter into and perform a contract with the County that it will, upon request by the county government specifying a parcel of real property in the County charged with any unpaid service charge under § 4509 of this title, cause the supply of water from its system to such parcel of real property to be stopped or restricted, as the county government may request, until the service charge and any subsequent service charge charged to such parcel and the interest accrued thereon is fully paid or until the county government directs otherwise. No such city or town or other public corporation or other person shall be liable for any loss, damage or other claim based on or arising out of the stopping or restricting of such supply, and the county government shall pay the reasonable cost of so stopping or restricting such supply and of restoring the same and may agree to indemnify such city or town or other public corporation or other person from loss or damage by reason of such stopping or restriction, including loss of profits.

(9 Del. C. 1953, § 4514; 55 Del. Laws, c. 255.)

## § 4515. Contract with municipality for the filtering, purifying or supplying of water.

The county government may contract with any municipality within the territorial limits of the County to buy, sell, process, filter, treat or purify water. Such filtration, treatment, processing or purification may be done in any plant or facility of the County or the municipality for such time, on such terms, and in such volume as the county government may, by resolution, determine.

(9 Del. C. 1953, § 4515; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

## § 4516. Connection of property with water mains.

Permits for connecting any property by a drain or pipe with any county water main shall be obtained from the county government and shall be issued only to plumbers licensed to do business in this State. No permit will be granted for connecting any property by a drain or pipe with any water main unless application is made therefor to the county government in writing upon blanks furnished by the county government. The application shall state the full name of the owner, the size and kind of drain or pipe to be used and a full description of

the premises, its location, the number and size of each building located thereon to be drained, the area of each floor thereof, including the floor of the cellar or basement, all of the purposes for which the drain or pipe is to be used, the time when the connection is to be made and other particulars for a full understanding of the subject and that the owner will be subject to all the rules and regulations prescribed by the county government. The application shall be signed by the owner of the property to be drained or supplied with water and by a plumber licensed to do business in this State. The owner shall also execute a release to the county government releasing the county government, its officers and agents and the County from all liability or damage which may in any manner result to the premises by reason of such connection. No permit shall be deemed to authorize anything not therein specifically stated.

(9 Del. C. 1953, § 4516; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

### § 4517. Licensed plumber to connect property with water mains.

All necessary plumbing work to be done in connecting any property with a county water main shall be done by a plumber licensed to do business in this State, in a good and workmanlike manner, and with good and proper materials, and shall be subject to the approval of the county government or its designated agent.

(9 Del. C. 1953, § 4517; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12; 70 Del. Laws, c. 186, § 1.)

### § 4518. Misrepresentations in application and unauthorized connections with water main; penalty.

Whoever wilfully makes any misrepresentation in any application or makes or maintains any connection with any water main contrary to the authority granted by permits issued therefor by the county government, or without a permit therefor in accordance with this chapter, shall be fined not less than $5.00 nor more than $500.

(9 Del. C. 1953, § 4518; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

### § 4519. Surveys and inspections by county government; penalty for refusal to permit.

(a) The county government or its designated representatives may go upon any land for the purpose of making surveys for water mains, water systems, water treatment plants, plumbing plants, or for rights-of-way or other property rights required for the water systems.

(b) The county government or its designated representatives may inspect, at reasonable hours, any premises, dwellings or other buildings in the vicinity of a county water main to determine if it is connected to the county water main, or to determine if the water main connection has been made or is being maintained in accordance with the regulations of the county government.

(c) Whoever refuses to permit inspections and surveys at reasonable hours shall be fined not less than $10 for every such refusal.

(9 Del. C. 1953, § 4519; 55 Del. Laws, c. 255; 56 Del. Laws, c. 103, § 12.)

### § 4520. Construction of chapter with other laws.

The powers conferred by this chapter shall be in addition to, and not in substitution for, the powers conferred by any other general, special or local law. The powers conferred by this chapter may be exercised notwithstanding that any other general, special or local law may confer such powers, and without regard to the requirements, restrictions, limitations or other provisions contained in such other general, special or local law.

(9 Del. C. 1953, § 4520; 55 Del. Laws, c. 255.)

### § 4521. Annexation.

Any annexation by any municipality of any previously unincorporated area shall not confer upon the annexing municipality any right, title or interest in any part of any water or sewer system constructed, acquired, extended or improved pursuant to this chapter, except as a resolution of the county government may so provide. No such resolution shall be adopted by the county government unless the annexing municipality shall have deposited a fund sufficient to pay when due any outstanding bonds issued hereunder for the purchase, construction, acquisition, extension or improvement of all systems wholly or partly within the annexed area, with interest to the date of call or redemption and any redemption or call premium applicable thereto.

(9 Del. C. 1953, § 4521; 55 Del. Laws, c. 255.)

## Subchapter II

## Monition Method of Sale in Kent County

### § 4522. Established.

In addition to all existing methods and authority for the collection of service charges due to the Kent County Receiver of Taxes, the monition method and authority is hereby established.

(75 Del. Laws, c. 26, § 1.)

### § 4523. Praecipe; judgment; monition.

(a) The tax collecting authority may file a praecipe in the office of the prothonotary of the Superior Court in and for the county where the property is located.

(b) The praecipe shall contain the name of the person against whom the service charges sought to be collected were assessed, a copy of the bill or bills showing the amount of service charges due, and the property against which the service charges were assessed. The description of the property, as the same appears upon the assessment rolls of the county where the property is located, shall be a sufficient identification and description of the property. Thereupon the prothonotary shall make a record of the same on a special judgment docket of the Superior Court against the property mentioned or described in the praecipe which record shall consist of the following:

(1) The name of the person in whose name the assessment was made;

(2) The description of the property as the same shall appear upon the assessment rolls;

(3) The year or years for which the service charges are due and payable;

(4) The date of the filing of such praecipe;

(5) The amount of the judgment, the same being the amount set forth in the praecipe.

Such judgment shall be indexed in the judgment docket itself under the hundred in which the property is located as the location appears upon the assessment rolls so prepared, and under the hundred by communities where the name of the community appears upon the assessment rolls so prepared, and by referring to the page in the judgment docket whereon the record shall appear.

(c) Thereafter upon a praecipe for monition filed in the office of the prothonotary by the tax collecting authority, a monition shall be issued by the prothonotary to the sheriff of the county where the property is located, which monition shall briefly state the amount of the judgment for the service charges due and the years thereof, including accrued penalty thereon, together with a brief description of the property upon which the service charges are a lien. A description of the property as it appears upon the assessment rolls shall be sufficient.

(75 Del. Laws, c. 26, § 1.)

## § 4524. Form of monition.

The monition shall be in substantially the following form:

"To all persons having or claiming to have any title, interest or lien upon the within described premises, take warning that unless the judgment for the service charges stated herein is paid within 20 days after the date hereof or within such period of 20 days, evidence of the payment of service charges herein claimed shall be filed in the office of the prothonotary, which evidence shall be in the form of a receipted service charge bill or duplicate thereof, bearing date prior to the filing of the lien in the office of the prothonotary for the county where the property is located, the tax collecting authority may proceed to sell the property herein mentioned or described for the purpose of collecting the judgment for the service charges herein stated, including accrued penalties and all costs incurred in the collection process.

| Name of PersonIn Whose NameProperty isAssessed | Descriptionof Property | Year orYears | Amountof Judgment |
|---|---|---|---|
| | | | |

(75 Del. Laws, c. 26, § 1.)

## § 4525. Posting of monition; sheriff's return; alias or pluries monition.

(a) The monition, or a copy thereof, shall be posted by the sheriff upon some prominent place or part of the property against which the judgment for the service charges is a lien, and the sheriff shall make due and proper return of the sheriff's proceedings under the monition to the prothonotary, within 10 days after the posting of the monition.

(b) Alias or pluries monition may issue upon like praecipe. The posting of the notice as herein required shall constitute notice to the owner or owners and all persons having any interest in the property.

(75 Del. Laws, c. 26, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4526. Issuance and form of writ of venditioni exponas.

(a) At any time after the expiration of 20 days following the return of the sheriff upon the monition, unless before the expiration of the 20 days the judgment and cost on the judgment shall be paid or evidence of the payment of such service charges evidenced by a receipted service charge bill or a duplicate thereof bearing date therefore prior to the filing of the lien for record in the office of the prothonotary, upon application in writing by the tax collecting authority, a writ of venditioni exponas shall issue out of the office of the prothonotary directed to the sheriff commanding the sheriff to sell the property mentioned or described in the writ and make due return of such proceedings thereunder in the same manner as is now applicable with respect to similar writs of venditioni exponas issued out of the Superior Court. The property shall be described in the writ under the description thereof as it appears on the assessment rolls and by metes and bounds where obtainable, but nothing herein contained shall be construed to invalidate a writ or a sale pursuant thereto containing only the description as it appears on the assessment rolls or a writ bearing only a description by metes and bounds.

(b) The writ shall be substantially in the following form:

"KENT COUNTY, SS.

The State of Delaware.

TO THE SHERIFF OF KENT COUNTY,

GREETINGS:

WHEREAS, by a Monition issued out of the Superior Court dated at ....., the ..... day of ..... A.D. 20 ....., IT WAS COMMANDED, that you should post the said Monition or copy thereof upon the real estate therein mentioned and described, and make a return to the said Superior Court within 10 days after said posting. That on the ..... day of ..... A.D. 20 ....., you returned that a copy of the said Monition was posted on the real estate therein mentioned and described on the ..... day of ....., A.D. 20 .....

We therefore now command you to expose to public sale, the real estate mentioned and described in said Monition as follows: ..... And that you should cause to be made as well a certain debt of ..... Dollars ($ .....) lawful money of the United States, which to the said Receiver of Taxes for Kent County, is due and owing, as also the sum of ..... Dollars ($ .....) lawful money as aforesaid, for its costs, which it has sustained by the detaining of that debt, whereof the said ..... was convicted as it appears of record and against which said property it is a lien:

And have you that money before the Judges of our Superior Court at ....., on Monday the ..... day of Next, to render to the Receiver of Taxes for Kent County as aforesaid, for its debt and costs as aforesaid, and this writ:

WITNESSETH, the Honorable ..... at ....., the ..... day of ..... A.D. 20 .....

..... Prothonotary

Issued:"

(c) The description contained in such monition shall be a sufficient description of the real estate to be sold under such writ.

(75 Del. Laws, c. 26, § 1.)

## § 4527. Sales subject to approval of department of finance or chief county financial officer.

The department of finance or the chief county financial officer as designated by the county governing body may approve or disapprove the final bid at a sale made by the sheriff under this subchapter provided that the notice of the public sale includes that such sale is "subject to the approval of the department of finance or the chief county financial officer" in the terms of sale. In the event the department of finance or the chief county financial officer does not approve the final bid at such sale, the said department of finance or chief county financial officer may expose the property to another and as many succeeding sales as it chooses.

(75 Del. Laws, c. 26, § 1.)

## § 4528. Title of property sold.

Any real estate or interest therein sold under the provisions of this subchapter shall vest in the purchaser all the right, title and interest of the person in whose name the property was assessed, and/or all right, title and interest of the person or persons who are the owners thereof, and likewise freed and discharged from any liens and encumbrances, dower or curtesy or statutory right, in the nature of a dower or curtesy, whether absolute or inchoate, in or to the real estate.

(75 Del. Laws, c. 26, § 1.)

## § 4529. Petition by purchasers for deed of conveyance.

If the owner of the property or the owner's legal representatives fail to redeem the property as provided in this subchapter, the purchaser of the property or the purchaser's legal representatives, successors or assigns may present a petition to the Superior Court setting forth the appropriate facts in conformity with this subchapter and pray that the Superior Court make an order directing the sheriff, then in office, to execute, acknowledge and deliver a deed conveying the title to the property to the petitioner; and thereupon the Superior Court shall have power, after a hearing upon the petition, to issue an order directing the sheriff to execute, acknowledge and deliver a deed as prayed for in the petition. A description of the property as the same shall appear upon the assessment rolls, and a description by metes and bounds where obtainable shall be a sufficient description in any such deed.

(75 Del. Laws, c. 26, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4530. Redemption by owner.

The owner of any such real estate sold under this subchapter or the owner's legal representatives may redeem the same at any time within 60 days from the day the sale thereof is approved by the court, by paying to the purchaser or the purchaser's legal representatives, successors or assigns, the amount of the purchase price and 15 percent in addition thereto, together with all costs incurred in the cause; or if the purchaser or the purchaser's legal representatives, successors or assigns refuse to receive the same, or do not reside or cannot be found within the county where the property is located, by paying the amount into the court for the use of the purchaser, the purchaser's legal representatives or assigns.

(75 Del. Laws, c. 26, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4531. Petition by owner after redemption for entry on judgment record.

If the owner of any real estate sold under an order of sale or the owner's legal representative redeems the real estate, the owner may present to the Superior Court a petition setting forth that fact and thereupon the Superior Court, after hearing and determining the facts

set forth in the petition, shall have power to cause to be entered upon the record of the judgment, under which the real estate was sold, a memorandum that the real estate described in the proceedings upon which the judgment was entered has been redeemed. Thereafter the owner shall hold such redeemed real estate subject to the same liens and in the same order of priority as they existed at the time of the sale thereof, excepting so far as the liens have been discharged or reduced by the application of the proceeds by the sheriff from the sale.

(75 Del. Laws, c. 26, § 1; 70 Del. Laws, c. 186, § 1.)

## § 4532. Regularity of proceedings under venditioni exponas.

Upon the return of the proceedings under a writ of venditioni exponas, the Superior Court may inquire into the regularity of the proceedings thereunder, and either approve the sale or set it aside.

(75 Del. Laws, c. 26, § 1.)

## § 4533. No proceedings unless tax is a lien upon property; construction of term "Superior Court".

(a) No proceedings shall be brought under this subchapter unless the service charge or assessment sought to be collected hereunder shall at the time of the filing of the praecipe in the office of the prothonotary be and constitute a lien upon the property against which the service charge or assessment was assessed or laid.

(b) Whenever the Superior Court is mentioned in this subchapter, the same shall be held to embrace the judges or any judge thereof, and any act required or authorized to be done under this subchapter may be done by the Superior Court or any judge thereof in vacation thereof, as well as in term time.

(75 Del. Laws, c. 26, § 1.)

## § 4534. Fees and costs.

(a) The fees and costs to be taxed in all proceedings under this subchapter, where not otherwise provided for, shall be as follows:

(1) The following fees shall be charged by the prothonotary:

| | |
|---|---|
| Filing praecipe | $1.10 |
| Issuing monition and copy | $2.75 |
| Issuing alias or pluries monition and copy | $2.75 |
| Writ of venditioni exponas | $2.25 |
| Filing any petition in Superior Court under this subchapter | $1.00 |
| Costs of paying money into Superior Court | $1.00 |
| Costs of paying money out of Superior Court for each check drawn | $1.00 |

(2) The following fees shall be charged by the sheriff:

| | |
|---|---|
| Posting monition or copy thereof | $ .75 |
| Posting each alias or pluries monition or copy thereof | $0.75 |

(b) The county government of Kent County may provide by ordinance for fees and costs to be taxed in all proceedings under this subchapter.

(75 Del. Laws, c. 26, § 1.)

## § 4535. Purchase at sheriff's sale by agent of county.

Kent County Levy Court may authorize any person to bid at the sale of any real estate under this chapter and, in the event that such person is the highest and best bidder therefor, title thereto shall be taken in the name of Kent County. Levy Court shall not authorize any person to bid in excess of the aggregate amount of all taxes, service, charges, penalties and obligations due to Kent County, including costs incurred in the collection process.

(75 Del. Laws, c. 26, § 1.)

# Part III
# Kent County
## Chapter 46
## Sewers and Sewer Districts

### § 4601. Definitions.

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

(1) The term "County" shall mean Kent County.

(2) The term "district" or the term "county sewer district" shall mean any sewage disposal district or sanitary district established pursuant to this chapter.

(3) The term "sanitary district" shall mean a county sewer district established to provide 1 or more facilities necessary or convenient for the collection of sewage, the treatment of such sewage and delivery of such treated effluent into the facilities of a sewage disposal district for final treatment.

(4) The term "sewage" shall mean all types of human or animal waste, industrial or commercial waste or any other waste suitable for treatment and disposal through the facilities of sewage treatment plants.

(5) The term "sewage disposal district" shall mean a county sewer district established to provide 1 or more sewer facilities necessary or convenient for the transmission, final treatment and disposal of effluent received from the sewage collection facilities of a sanitary sewer district or from any other source as specifically provided herein.

(9 Del. C. 1953, § 4601; 56 Del. Laws, c. 103, § 13.)

### § 4602. Purpose.

(a) The county government may establish or extend 1 or more county sewage disposal districts and county sanitary districts in the manner hereinafter provided for the purpose of the collection, transmission, treatment, and disposal of sewage.

(b) A county district established or extended hereunder may consist of 2 or more noncontiguous areas.

(c) Sanitary districts may only be established or extended within the boundaries of a sewage disposal district.

(9 Del. C. 1953, § 4602; 56 Del. Laws, c. 103, § 13.)

### § 4603. Planning.

(a) The county government may:

(1) Assemble data, and develop plans relating to the collection, transmission, treatment and disposal of sewage within the County, and relating to the elimination or alleviation of sewage problems; and

(2) Study the possibility of developing and utilizing existing facilities to make them available to the several municipalities, and other political subdivisions and unincorporated areas within the County.

(b) The county government on its own motion may cause a preliminary report including maps and plans to be prepared for the establishment of a certain area or areas of the County as a county district. Such maps and plans shall show:

(1) The boundaries of the area or areas which the county government in its judgment considers will be benefited directly or indirectly by the particular project;

(2) A description of the area or areas sufficient to permit definite and conclusive identification of all parcels of property included therein;

(3) The proposed location of all facilities such as lateral, trunk, interceptor and outfall sewers, pumping stations, and treatment and disposal facilities;

(4) Estimates of the cost of construction of the facilities as shown on the maps and plans; and

(5) The method of financing such facilities.

If the report shall contain recommendations for the establishment of 2 or more zones of assessment within a county district, the maps and plans shall show the boundaries of each of such zones and the estimated initial allocation of the cost of construction of the facilities recommended to be charged to each of such zones.

(c) The county government may employ or contract for such engineering, legal, professional and other assistance as from time to time may be needed, and may incur such other expenses as may be necessary to carry out the powers herein set forth.

(9 Del. C. 1953, § 4603; 56 Del. Laws, c. 103, § 13.)

### § 4604. Public hearing.

(a) Upon completion of the preliminary report and the maps and plans, the county government shall call a public hearing upon a proposal to establish a county district to comprise the area or areas defined in such maps and plans.

(b) The county government shall cause a notice of public hearing to be posted in 4 public places within the proposed district and shall cause a notice of the public hearing to be published at least once in a newspaper published within the County and having a general circulation therein. The first publication thereof shall be not less than 10 days before the date set therein for the hearing. The notice of

hearing shall contain a description of the area or areas to be included within the proposed district, and if the report shall have recommended the establishment of zones of assessment, a description of the area or areas to be included within such zones, the improvement proposed, the maximum amount proposed to be expended for the improvement, the allocation of such maximum amount as between the zones of assessment recommended, if any, and shall specify the time and the place where the county government will meet to consider the matter and to hear all parties interested therein concerning the same. In the event that zones of assessment and allocation of cost of the facilities between such zones of assessment are provided for, said notice shall further state that said zones of assessment and said allocations of cost may be changed from time to time by resolution of the county government adopted after a public hearing whenever said county government shall determine that such changes are necessary in the public interest.

(9 Del. C. 1953, § 4604; 56 Del. Laws, c. 103, § 13.)

## § 4605. Representation by municipalities and districts.

At the public hearing on the establishment of a county district which includes the whole or any part of a district furnishing a similar service as the proposed district, a city or a town, such district, city or town, may be represented by an officer of the district, city or town, duly designated by the governing body of such district, city or town to attend.

(9 Del. C. 1953, § 4605; 56 Del. Laws, c. 103, § 13.)

## § 4606. Establishment of the county district.

(a) Upon the evidence presented at the public hearing, and after due consideration of the maps and plans, reports, recommendations and other data filed with it, the county government shall determine by resolution whether or not the proposed district and facilities are satisfactory and sufficient, and if it shall determine such question in the negative, it may proceed to make a further study. The county government may make such further study and amend and revise the maps and plans and estimate of cost in conformance with its findings. If the revised maps and plans and revised estimate alter the estimated maximum expenditure for the project, alter the boundaries of the proposed district, alter the boundaries of zones of assessment or change the allocation or cost of the facilities as between zones of assessment, the county government shall call a further public hearing thereon in the manner provided in § 4604 of this title. When the county government shall find that the proposed district and facilities are adequate and appropriate, it shall further determine by resolution (1) whether all the property and property owners within the proposed district are benefited directly or indirectly thereby, (2) whether all of the property and the property owners so benefited are included within the limits of the proposed district, (3) whether it is in the public interest to establish the district, and (4) if said maps and plans and reports recommend the establishment of zones of assessment and the allocation of the cost of the facilities as between such zones of assessment, whether such zones of assessment and the allocation of the cost of the facilities thereto represent as nearly as may be the proportionate amount of benefit which the several lots and parcels of land in such zones will derive therefrom.

(b) If the county government shall determine that it is in the public interest to establish the district, but shall find that (1) any part or portion of the property or property owners within the proposed district are not benefited directly or indirectly thereby, or (2) that certain property owners benefited directly or indirectly thereby have not been included therein, or (3) if zones of assessment are proposed to be established and the cost of facilities allocated among said zones of assessment, that any part or portion of the property of property owners within a proposed zone of assessment should be placed in a different zone or that a different allocation of the cost should be made as between the zones of assessment, the board shall cause the necessary changes of the boundaries of the proposed district, or the necessary changes of the boundaries of any proposed zone of assessment or the necessary changes as to the allocation of costs, as the case may be, to be made, and the board shall call a further hearing at a definite place and time not less than 10 nor more than 30 days after such determination. Notice of such further hearing shall be published in the manner provided in § 4604 of this title, except that such notice shall also specify the manner in which it is proposed to alter the boundaries of the proposed district, or the boundaries of the zones of assessment or the allocation of the cost of the facilities as between said zones of assessment, as the case may be. If and when the board shall determine in the affirmative all of the questions set forth above, the board may adopt a resolution approving the establishment of the district, as the boundaries shall be finally determined, and the construction of the improvement, and if zones of assessment have been established and an allocation of the costs of the facilities made as between such zones of assessment, further approving the establishment of the initial zones of assessment and the initial allocation of the costs of the facilities as between said zones of assessment. Such resolution shall be subject to referendum upon petition as hereinafter provided.

(9 Del. C. 1953, § 4606; 56 Del. Laws, c. 103, § 13.)

## § 4607. Referendum upon petition.

(a) Within 10 days after the adoption of a resolution subject to referendum upon petition, the county government shall cause a notice to be published at least once in a newspaper published within the County and having a general circulation therein. Such notice shall contain a true copy of the resolution, the date of adoption thereof, and a statement that such resolution is subject to referendum upon petition.

(b) Such resolution shall not take effect until 30 days after its adoption; nor unless it is approved by the affirmative vote of a majority of qualified electors of the proposed district, voting thereon, if within 30 days after its adoption there be filed with the county government a petition signed by 10 percent of the electors of the proposed district.

(c) Such petition shall state that a referendum is requested on such resolution describing the same by its date of adoption, and shall contain an abstract of the text thereof. The petition may consist of separate sheets and the signatures to each sheet shall be acknowledged

by the signer thereof or it may be proved by the oath of a witness who shall swear that such witness knows the signer and that the petition was signed in the presence of the witness. If the petition be sufficient and valid, the county government shall by resolution fix a date not less than 45 days after its adoption by which a proposition as herein provided for is to be submitted to a general or special election.

(d) Within 30 days after the adoption of a resolution which is subject to referendum upon petition, the county government may, on its own motion, provide that such resolution be submitted to a vote of the qualified resident electors of the district. Notice of the election shall be advertised in the same manner as provided in § 4604 of this title for advertising a public hearing. The cost of the election shall be borne by the County, which shall be reimbursed for such cost by the district, if established. The proposition for the submission of a resolution of the county government to the approval of the voters pursuant to this chapter, shall contain an abstract of such resolution stating the purpose and effect thereof. The Clerk of the county government shall prepare such abstract with the advice of the Attorney for the county government and shall transmit the proposition, in the form in which it is to be submitted, to the county government who shall submit same at a general or special election in accordance with the provisions of this chapter. Each person or legal entity entitled to vote shall have 1 vote and shall have an additional vote for each $1,000 of total assessed value of real property and buildings thereon owned by such person or legal entity, such valuation to be determined by the records of the Kent County Board of Assessment. The majority of votes cast shall decide the matter. The election shall be managed and the votes canvassed in such manner as may be prescribed by the county government. Every citizen who resides in the proposed sewer district and who would be entitled at the time of the holding of such election to register and vote at a general election, if such general election were held on the day of such election in the proposed sewer district, may vote at such election whether or not the citizen is at the time a registered voter.

(9 Del. C. 1953, § 4607; 56 Del. Laws, c. 103, § 13; 56 Del. Laws, c. 241, § 4; 70 Del. Laws, c. 186, § 1.)

## § 4608. Review.

Any interested party aggrieved by the final determination made by the county government establishing the district or authorizing the increase and improvement of facilities previously authorized for an existing district, may make application for review by a court of competent jurisdiction, of any and all of the final determinations made by the county government in connection with the proceeding establishing the district or authorizing the increase for improvements of facilities previously authorized for an existing district; provided, that application for review is made within 30 days from the effective date of the resolution establishing the district, or extending the boundaries thereof, or the adoption of a resolution authorizing the increase and improvement of facilities previously authorized for an existing district. Unless such application is made within 30 days as aforesaid, the resolution establishing the district, extending the boundaries thereof, or authorizing the increase and improvement of facilities previously authorized for an existing district shall be final and conclusive, and shall be presumptive evidence of the regularity of the proceedings for the establishment of the district for the extension thereof or for the authorization of the increase and improvement of facilities previously authorized for an existing district, and all other actions taken by the county government in relation thereto.

(9 Del. C. 1953, § 4608; 56 Del. Laws, c. 103, § 13.)

## § 4609. Validation of prior establishment of districts.

Any district heretofore established pursuant to the provisions of this chapter is hereby declared and determined to have been validly established, regardless of the failure of the county government or any of its officials or employees to comply with the requirements as to the establishment of such district set forth in this chapter, and notwithstanding that any of the proceedings taken to establish such district were not validly taken, and notwithstanding that the area of the district is less than the area in which the proposed sewage improvements are to be constructed and that such sewage improvements will serve an area greater than the area of such district; provided, however, that any assessment levied on the lots and parcels of land in such district or any extension thereof shall be in proportion as nearly as may be to the benefit which each parcel would derive from such proposed sewage improvements, regardless of the total cost of such sewage improvements. Sewage disposal systems may be constructed on behalf of any such district either within or without the area of the district, to serve the district, any other district heretofore or hereafter established, and any municipality or other political subdivision of the State or agency which may contract for the use and services of the sewage system. Bonds of the county government may be issued to finance the cost of such sewage system whether authorized by bond resolutions heretofore or hereafter adopted by the county government. The bonds shall be payable in the manner provided by § 4656 of this title.

(9 Del. C. 1953, § 4608A; 57 Del. Laws, c. 108, § 1.)

## § 4610. Plans and specifications.

After a district shall have been established, the county government shall cause to be prepared by the County Engineer or duly licensed engineer employed or contracted for that purpose, detailed plans and specifications for the improvement, a detailed estimate of the expense, and with the assistance of the attorney for the county government, or other legal or professional help employed or contracted for that purpose, a proposed contract or contracts for the execution of the work.

(9 Del. C. 1953, § 4609; 56 Del. Laws, c. 103, § 13.)

## § 4611. Contracts.

(a) All contracts or orders for work, material or supplies, performed or furnished in connection with construction, shall be awarded by the county government by or pursuant to resolution. Such contracts or orders for work, material or supplies needed for any particular

purpose involving an expenditure of more than $2,000 shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed bids or proposals shall be published at least once in a newspaper or trade paper selected by the county government for such purpose, such publication to be at least 10 days before the date for the receipt of bids. If the county government shall not deem it in the interest of the county government to reject all bids, it shall award the contract to the lowest bidder, unless the county government shall determine that it is in the public interest that a bid other than the lowest bid should be accepted.

(b) The bidder whose bid is accepted shall give security for payment for materials and for the faithful performance of the contract, for maintenance following completion, and for such other purposes as the county government may require. The sufficiency of such security shall be determined by the county government. All bids or proposals shall be publicly opened by the county government or its duly authorized agent. If the bidder whose bid has been accepted shall neglect or refuse to accept the contract within 5 days after written notice that the same has been awarded to that bidder on his or her bid or proposal, or, if the bidder accepts but does not execute the contract and give proper security, the county government shall have the right to declare his or her deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the county government may, if the best interests of the district be thereby served, adopt on behalf of the district any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made; and the county government shall in the manner provided herein advertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontract or subcontracts so adopted.

(c) Notwithstanding the provisions of this section or any other provision of law, the county government may contract for engineering, legal or other professional services requiring special skill or training for any project authorized by this chapter without requesting competitive bids or proposals, and without awarding such contract to the lowest bidder.

(9 Del. C. 1953, § 4610; 56 Del. Laws, c. 103, § 13; 70 Del. Laws, c. 186, § 1.)

## § 4612. Powers of the county government.

In addition to other powers which it has in reference to a district or extension thereof, the county government may:

(1) Plan, construct, reconstruct, improve, better or extend a sewage system or systems, acquire by gift, purchase, lease or the exercise of the right to eminent domain, a sewage system or lands or rights in land in connection therewith; on behalf of a district, acquire by purchase or lease any sewage collection, treatment or disposal facilities owned, maintained or operated by any municipal, public or district corporation, or special district, and such agencies shall have the power to sell or lease such facilities to a county sewer district, notwithstanding that such sewage facilities have already been devoted to and are held for public use; and may, instead of making any cash payment agreed or required to be made to the municipal, public or district corporation or special district, as compensation for such sewage facilities, agree to pay the principal of and interest on outstanding bonds issued by or on behalf of such municipal, public or district corporation or special district, of a principal amount not exceeding any lump sum amount agreed upon as consideration for such purchase or lease, as such principal and interest shall become due and payable;

(2) Operate and maintain a sewage system or systems, and furnish the services and facilities rendered or afforded thereby;

(3) Enter into and perform contracts, whether long term or short term, with any industrial establishment, municipality, district or agency of the state or federal government for the provision and operation by the county sewer district of a sewage system to abate or reduce the pollution of waters caused by discharges of sewage and industrial wastes by such industrial establishment, municipality, district or agency of the state or federal government; and such contract may provide for the payment periodically by the industrial establishment, municipality, district or agency of the state or federal government to the county sewer district of amounts to compensate the county sewer districts for the cost of providing (including payment of principal and interest charges, if any) and of operating and maintaining the sewage system or part thereof serving such industrial establishments, municipality, district or agency of the state or federal government;

(4) After appropriate notice, require a municipality, public or district corporation or special district which maintains or operates any sewage collection treatment or disposal facilities within the area of a county sewage disposal district, established pursuant to the provisions of this chapter, to connect to and utilize the sewage system and facilities of such county sewage disposal district in order to abate or reduce the pollution of waters caused by discharges of sewage and industrial waste;

(5) Accept from any authorized agency of the state or federal government, or from persons, firms or corporations, loans, grants or contribution for the planning, construction, acquisition, lease, reconstruction, improvement, betterment or extension of any sewage system and enter into agreements respecting such loans, grants and contributions;

(6) Accept grants or loans of money, labor, materials, equipment or technical assistance from agencies of the federal or state government or from interstate agencies established by law to accomplish the purposes of this chapter, and may pay the interest and amortization of such loans;

(7) Enter into and perform contracts with any person for the sale of effluent products;

(8) After a public hearing called and held in a manner provided in § 4604 of this title, adopt, amend, and repeal from time to time ordinances, resolutions, and rules and regulations for the operation of a county sewer district and the use of the sewerage system therein, including regulation of the manner of making connections and the construction to the system and all facilities and appurtenances associated therewith; and

(9) Impose a fine of not less than $500 or more than $10,000 for a violation of any ordinance, resolution or rule or regulation, so adopted by the county government relating to operation of a county sewer district and the use of the sewerage system therein, including regulation of the manner of making connections and the construction to the system and all facilities and appurtenances associated therewith.

(9 Del. C. 1953, § 4611; 56 Del. Laws, c. 103, § 13; 68 Del. Laws, c. 370, § 1; 74 Del. Laws, c. 341, §§ 1, 2.)

## § 4613. Preliminary expenses.

The preliminary expenses incurred for the preparation of maps, plans, studies, reports and other matters relating to the establishment or extension of a sewer district as authorized by this chapter, shall be a county charge and shall be assessed, levied and collected in the same manner as other county charges. If the county government shall thereafter establish or extend a sewer district and construct a sewer system therein pursuant to the provisions of this chapter, the expenses incurred by the county government as set forth above shall be deemed to be part of the cost of such improvement and the County shall be reimbursed for the whole amount paid therefor, or for such portion of that amount which the county government shall allocate against such district or extension. In the event the district is not established or extended, the county government may issue bonds to finance the above cost either in whole or in part, pledging the full faith and credit of the County to the punctual payment of the bonds and the interest thereon. Such bonds may be issued for a period of not to exceed 5 years from their respective dates.

(9 Del. C. 1953, § 4612; 56 Del. Laws, c. 103, § 13.)

## § 4614. Sewage charges and revenues.

(a) The county government may, after a public hearing called and held in the manner provided in § 4604 of this title, by ordinance or resolution, establish charges for the use of a sewage system or any part or parts thereof. Such charges may be based on any of the following:

(1) The consumption of water on the premises connected with and served by the sewage system or such part or parts thereof;

(2) The number and kind of plumbing fixtures on the premises connected with and served by the sewage system or such part or parts thereof;

(3) The number of persons served on the premises connected with and served by the sewage system or such part or parts thereof;

(4) The volume and character of sewage, industrial waste and other waste discharged into the sewage system or such part or parts thereof; or

(5) Any other equitable basis determined by the county government including but not limited to any combination of the foregoing.

(b) Such sewage charges, together with the amount of any penalty and interest prescribed by the county government and due for nonpayment of such charges, shall constitute a lien upon the real property served by the sewage system or such part or parts thereof for which sewage charges shall have been established and imposed. The lien shall be prior and superior to every other lien or claim except as otherwise may be provided by law.

(c) The county government on behalf of a sewer district may bring and maintain an action:

(1) To collect sewage charges in arrears including penalties and interest; or

(2) To foreclose liens for such sewage charges.

As an alternative to the maintenance of any such action, the county government may annually cause a statement to be prepared stating the amount of each lien for sewage charges in arrears including penalties, the real property affected thereby, and the name of the person in whose name such real property is assessed. The county government shall cause to be levied the amounts contained in such statements against the real property at the same time and in the same manner as county taxes, and such amounts shall be set forth in a separate column in the annual tax rolls. The amount so levied shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of county taxes.

(d) The ordinance or resolution establishing and imposing sewage charges:

(1) Shall describe the sewer system or the part or parts of the sewer system for which such charges shall be established and imposed;

(2) Shall prescribe the basis for such charges;

(3) Shall provide for the date or dates on which sewage charges shall become due and payable; and

(4) May provide for penalties and interest for sewage charges in arrears, or for discounts for the prompt payment of such charges, or for penalties, interest and discounts.

(9 Del. C. 1953, § 4613; 56 Del. Laws, c. 103, § 13.)

## § 4615. Expense of the improvement.

The cost of establishment of a county sewer district and the furnishing of the improvement therein shall include the amount of all contracts, the cost of all lands and interests therein necessarily acquired, the cost of erection of necessary facilities and appurtenances for operation or administration of the improvement, the cost of necessary equipment for operation or administration of the improvement, printing, publishing, interest on loans, legal, engineering and other professional services, and all other expenses incurred or occasioned

by reason of the establishment or extension of the district and the furnishing of the improvement. In addition, there shall be apportioned against, charged to and included in such cost, such allowance as the county government may make for expenditures which are directly attributable to the establishment or extension of the district as well as for any services rendered by the attorney for the county government, the County Engineer or any other salaried county officer or employee when such services have been necessary to or occasioned by reason of the establishment of the district.

(9 Del. C. 1953, § 4614; 56 Del. Laws, c. 103, § 13.)

## § 4616. Increase and improvement of facilities.

Whenever the county government shall determine it necessary to acquire additional lands or interests in lands or to acquire or to construct additional trunk, interceptor and outfall sewers, pumping stations, treatment and disposal works and appurtenances, lateral sewers or other facilities, or whenever the county government shall determine it necessary for the purpose of the operation and maintenance of such facilities to increase, improve and reconstruct the facilities thereof, including the acquisition of additional lands or interests in lands, it may cause the same to be accomplished without further authorization; provided, however, that if it is proposed to finance any part of the cost thereof by the issuance and sale of county obligations, such improvement shall not be undertaken unless authorized by proceedings taken in the same manner as the proceedings taken for the original establishment or extension of the district except that the sole determination which the county government shall make is whether such improvement is in the public interest, and, if zones of assessment have been established, said county government shall further determine the allocation of the cost thereof as between such zones.

(9 Del. C. 1953, § 4615; 56 Del. Laws, c. 103, § 13.)

## § 4617. Increase of maximum amount to be expended.

At any time after the establishment of a district or extension thereof pursuant to this chapter, the maximum amount authorized to be expended for the original improvement in such district or extension thereof may be increased by a resolution of the county government, provided the county government shall, after a public hearing called and held in the manner provided in § 4604 of this title, determine that it is in the public interest to authorize an increase of such maximum amount. If zones of assessment have been established, such resolution of the county government shall further provide for the allocation of such increase as between such zones of assessment and the notice of such public hearing shall state such allocation.

(9 Del. C. 1953, § 4616; 56 Del. Laws, c. 103, § 13.)

## § 4618. Method of assessment.

(a) The county government may determine to issue obligations of the County in such an amount as they may estimate to be sufficient to pay the entire cost of the improvement, but not in excess of the maximum amount proposed to be expended for the improvement, as stated in the notice of hearing, published pursuant to § 4604 of this title. In preparing the annual estimate of revenues and expenditures for the County on behalf of the district or extension thereof, the county government shall include, in addition to all costs of operation and maintenance for the next succeeding fiscal year, sums sufficient to pay the annual installments of principal and interest on obligations issued on behalf of the district or extension thereof. The county government shall thereupon annually levy a tax, unlimited as to rate or amount, upon the assessable property within the County in the amount of the estimate of expenditures. In making such levy the county government shall take into account the estimates of revenues, as set forth in the estimate so prepared, at a time to be fixed by it, and the amount of any assessments levied on behalf of the County, as hereafter provided and due and payable in the fiscal year for which the estimates are prepared.

(b) The county government shall, after a public hearing, establish an annual assessment roll for the county sewer district or extension thereof which shall be known as the “Sewer District Assessment Roll.” The annual assessments may be apportioned, by the county government, against the several lots and parcels of land in the district or extension thereof by 1 or more of the following methods:

(1) An assessment on the lots and parcels of land in the district or extension thereof in proportion as nearly as may be to the benefit which each parcel would derive from the improvement;

(2) If zones of assessment have been established and an allocation of the total estimated cost of the facilities has been made to the zones, the amount of the cost of the facilities so allocated to any such zone of assessment may be apportioned by an ad valorem assessment levied on all the lots and parcels of land within such zone;

(3) If zones of assessment have been established, as provided above, by assessment on the lots and parcels of land within such zone in proportion as nearly as may be to the benefit which each parcel will derive from the improvement.

(c) Notice of the public hearing shall state that the assessment roll has been completed and filed, and the time and place fixed for the public hearing. Notice of such public hearing shall be published in a newspaper, published within Kent County, and having a general circulation therein at least once, not less than 7 days immediately preceding the date of the public hearing. At the time and place specified, the county government shall meet and hear and consider any objections to the assessment roll, and may change or amend the same as it deems necessary or just, may affirm and adopt the same as originally proposed or as amended or changed, or the county government may prepare a new roll. No amended, changed, or new roll shall be adopted, unless the county government shall hold another hearing thereon, in the manner and upon the notice prescribed for the original hearing. The annual assessment shall be levied and collected at

the same time as taxes levied for general county purposes. The County Treasurer shall keep a separate account of such moneys, and they shall be used only for the purpose of the district or extension thereof for which collected. The properties against which such assessments are levied, shall be liable for the payment of the assessments in the same manner as they are liable for other county taxes.

(9 Del. C. 1953, § 4617; 56 Del. Laws, c. 103, § 13; 57 Del. Laws, c. 108, § 2.)

## § 4619. Extension of the district.

The district may be extended so as to include territory not previously included within its boundaries in the same manner as hereinbefore prescribed for the original establishment of a district. The cost of the extension shall include all the costs and expenses occasioned by reason of such extension and in addition thereto such proportion of the cost of the system of the original district as the county government shall determine.

(9 Del. C. 1953, § 4618; 56 Del. Laws, c. 103, § 13.)

## § 4620. Changes in zones of assessment.

The county government, after holding a public hearing upon notice published in the same manner as provided in § 4604 of this title, from time to time, by resolution may:

(1) Change the allocation of the cost of such facility as between zones of assessment;

(2) Change the boundaries of zones of assessment; or

(3) Establish new zones of assessment or eliminate existing zones of assessment.

(9 Del. C. 1953, § 4619; 56 Del. Laws, c. 103, § 13.)

## § 4621. Order to connect to sewer; enforcement.

(a) The county government may, where it deems it necessary to the preservation of public health, order the owner of any lot or parcel of land within a district or extension thereof which abuts upon a street or right-of-way containing a sewer which is part of or served by the county sewage system, and upon which lot or parcel of land a building shall have been constructed for residential, commercial or industrial use, to connect such building with such sewer.

(b) If any owner shall fail to comply within 60 days with such order to connect with such sewer, the county government may forthwith institute action in any Justice of the Peace Court or may institute a summary action in the Superior Court to compel compliance with such order.

(9 Del. C. 1953, § 4620; 56 Del. Laws, c. 103, § 13.)

## § 4622. Surveys and inspection by county government; penalty for refusal to permit.

(a) The county government or its designated representatives may go upon any land for the purpose of making surveys for sewers, sewage systems, sewage disposal plants, pumping stations or other facilities, or for rights-of-way or other property rights required for a sewage system.

(b) The county government or its designated representatives may inspect, at reasonable hours, any premises, dwelling or other building in the vicinity of a sewer to determine if it is connected to the sewer, or to determine if the sewer connection has been made or is being maintained in accordance with the regulations of the county government.

(c) Whoever refuses to permit inspections and surveys at reasonable hours shall be fined not less than $10 nor more than $100 for every such refusal.

(9 Del. C. 1953, § 4621; 56 Del. Laws, c. 103, § 13.)

## § 4623. Annexation.

Any annexation by any municipality of any previously unincorporated area shall not confer upon the annexing municipality any right, title or interest in any part of any sewage system constructed, acquired, extended or improved pursuant to this chapter, except as a resolution of the county government may so provide. No such resolution shall be adopted by the county government unless the annexing municipality shall have deposited a fund sufficient to pay when due any outstanding bonds issued hereunder for the purchase, construction, acquisition, extension or improvement of all systems wholly or partly within the annexed area, with interest to the date of call or redemption and any redemption or call premium applicable thereto.

(9 Del. C. 1953, § 4622; 56 Del. Laws, c. 103, § 13.)

## § 4624. Dissolution and diminishing area of sewer districts.

Whenever the county government shall determine it to be in the public interest, said county government, upon its own motion, but after a public hearing called and held in the manner provided in § 4604 of this title, may dissolve and discontinue any sewer district:

(1) Provided that the period of 3 years shall have elapsed since the date of establishment of such district, and that no improvement has been constructed or service provided for such district at any time since the establishment thereof; and

(2) Further provided that there be no indebtedness outstanding and unpaid, incurred to accomplish any of the purposes of such district.

(9 Del. C. 1953, § 4623; 56 Del. Laws, c. 103, § 13.)

## § 4625. Exception to limitation on borrowing power.

Section 4111 of this title shall not apply to this chapter.

(9 Del. C. 1953, § 4624; 56 Del. Laws, c. 103, § 13.)

## § 4626. Power to incur indebtedness by issuing bonds and notes.

The county government may incur indebtedness by issuing negotiable bonds, and notes in anticipation of bonds, pursuant to this chapter to finance the cost of the establishment or extension of a district and the improvements therein which it may lawfully construct or acquire pursuant to this chapter.

(9 Del. C. 1953, § 4625; 56 Del. Laws, c. 103, § 13.)

## § 4627. Bond resolution vote required.

The county government shall authorize the issuance of bonds by a "bond resolution" passed by the affirmative vote of at least $^{3}/_{5}$ of all its members.

(9 Del. C. 1953, § 4626; 56 Del. Laws, c. 103, § 13.)

## § 4628. Form and content of bond resolution.

Every bond resolution adopted pursuant to this chapter shall be properly dated and shall bear a title indicating the type of obligation to which it relates and shall contain, in substance, at least the following provisions:

(1) A statement of the specific purpose for which the obligations authorized by the resolution are to be issued; such specific purpose to be described in brief and general terms sufficient for reasonable identification;

(2) If the obligations to be authorized are for a specific purpose, a statement of the estimate of the maximum cost of each item of such specific purpose, such statement shall also set forth the plan for the financing of such purpose which shall indicate the sources of the amounts of money which have been previously authorized to be applied to the payment of the cost of each purpose, and the intended source or sources other than the proceeds of such obligations of the balance of the money to be so applied;

(3) A statement of the amount of bonds to be issued for such specific purpose; and

(4) A determination of the period of usefulness of the project within the limitations provided for in this chapter computed from the date of issuance of the first obligation in reference thereto.

(9 Del. C. 1953, § 4627; 56 Del. Laws, c. 103, § 13.)

## § 4629. Procedure for passage of bond resolution.

Every bond resolution shall be introduced in writing in the form in which it is to be finally passed, and upon final passage shall be published in full in at least 1 newspaper published in the County and having general circulation therein together with a notice in substantially the following form:

NOTICE

The bond resolution published herewith was adopted on the ..... day of ..... 20....., and the validity of the obligations authorized by such resolution may be hereafter contested only if:

(1) Such obligations are authorized for a purpose for which the County is not authorized to expend money, or

(2) The provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication, or

(3) Such obligations are authorized in violation of the provisions of the Constitution.

..... Clerk

(9 Del. C. 1953, § 4628; 56 Del. Laws, c. 103, § 13.)

## § 4630. Effective date of bond resolution.

Each bond resolution shall take effect immediately after passage.

(9 Del. C. 1953, § 4629; 56 Del. Laws, c. 103, § 13.)

## § 4631. Authorization of notes in anticipation of bonds.

In anticipation of the issuance of bonds, the county government may by resolution authorize the issuance of negotiable notes when it shall have theretofore authorized the issuance of bonds. Such notes shall mature within 1 year from the date of their issue and may be

renewed from time to time, but each renewal shall be for a period not exceeding 1 year, and in no event shall such notes extend more than 7 years beyond the original date of issue.

(9 Del. C. 1953, § 4630; 56 Del. Laws, c. 103, § 13; 63 Del. Laws, c. 33, § 1.)

### § 4632. Other proceedings by resolution.

All matters in connection with the authorization, sale and issuance of the bonds or notes not specifically required to be provided in the bond resolution may be determined or provided by subsequent resolutions adopted by the affirmative votes of at least the majority of the members of the county government.

(9 Del. C. 1953, § 4631; 56 Del. Laws, c. 103, § 13.)

### § 4633. Payment of bonds.

The bonds may be payable at such time or times as may be determined in the bond resolution, or by resolution adopted subsequent to the adoption of the bond resolution, within the limitations provided in this chapter.

(9 Del. C. 1953, § 4632; 56 Del. Laws, c. 103, § 13; 57 Del. Laws, c. 108, § 3.)

### § 4634. Payment of installment.

The last installment of each authorized issue of bonds shall be paid not later than the date of expiration of the period of usefulness of the project for the financing of which such bonds are issued, as determined in the bond resolution authorizing the issuance of the bonds, computed from the date of issuance of the bonds or of the issuance of the first note or notes, whichever is the earlier.

(9 Del. C. 1953, § 4633; 56 Del. Laws, c. 103, § 13.)

### § 4635. Period of usefulness.

(a) The following maximum periods of usefulness are hereby prescribed for the respective projects authorized by this chapter, and the period of usefulness of any project, determined in any bond resolution shall, in no event, exceed the maximum period hereby prescribed for that project.

(b) The acquisition, construction or reconstruction of a sewage system or an addition thereto, whether or not including treatment or disposal plants or buildings, original furnishings, equipment, machinery or apparatus, or the replacement of such equipment, machinery or apparatus, is 40 years; the replacement or the later addition of furnishings is 10 years.

(9 Del. C. 1953, § 4634; 56 Del. Laws, c. 103, § 13.)

### § 4636. Consolidation of bond issues.

Bonds for 1 or more specific objects or purposes or classes of objects or purposes, or a combination thereof, may be consolidated and sold as a single bond issue.

(9 Del. C. 1953, § 4635; 56 Del. Laws, c. 103, § 13.)

### § 4637. Public sale of bonds.

All bonds issued under this law, except as otherwise provided in § 4644 of this title and except bonds of authorized issues of $30,000 or less and having a maximum maturity of not more than 5 years from the date of issuance of such bonds, shall be sold at public sale upon sealed proposals after at least 10 days notice published at least once in a publication carrying municipal bond notices and devoted primarily to financial news or to the subject of state and municipal bonds, published in the City of New York, and at least 10 days notice published at least once in a newspaper published in the County and having general circulation therein. Bonds of authorized issues of $30,000 or less, and maturing as hereinabove set forth, and all bond anticipation notes may be sold at private sale by such financial officer as the county government may by resolution provide.

(9 Del. C. 1953, § 4636; 56 Del. Laws, c. 103, § 13.)

### § 4638. Contents of notice of sale — Generally.

The public notice of sale of bonds shall describe the bonds and set forth the terms and conditions of sale. It shall invite bidders to name the rate or rates of interest to be borne by the bonds, which rate or rates shall be stated in multiples of $^1/_8$ or $^1/_{10}$ of 1 percent. The notice shall also state that the bonds will not be sold for less than par and accrued interest.

(9 Del. C. 1953, § 4637; 56 Del. Laws, c. 103, § 13.)

### § 4639. Contents of notice of sale — Award of bonds at single interest rate.

Unless the notice of sale permits the naming of more than 1 rate of interest, as hereinafter provided, it shall state that all the bonds bid for shall bear a single rate of interest and, in case of a sale of more than 1 issue, after describing the separate issues, shall state the combined maturities as if such combined maturities constituted a single issue. The notice of sale shall state that the bonds will be awarded

to the bidder offering the lowest interest rate and, as between bidders offering the same lowest rate, to the bidder who offers to pay the highest cash premium.

(9 Del. C. 1953, § 4638; 56 Del. Laws, c. 103, § 13.)

## § 4640. Contents of notice of sale — Multiple rate bidding.

The notice of sale may, as an alternative to a single interest rate, permit bidders to name 2 or more interest rates for the bonds proposed to be sold, within such limitations as the notice of sale may provide. In such event it shall state that all the bonds will be awarded to the bidder on whose bid the total loan may be made at the lowest net interest cost to the district, such net cost being computed, as to each bid, by adding to the total principal amount of the bonds the total interest which will be paid under the terms of the bid, after deducting from such interest the amount of premium, if any.

(9 Del. C. 1953, § 4639; 56 Del. Laws, c. 103, § 13.)

## § 4641. Contents of notice of sale — Deposit.

The notice of sale shall require all bidders to deposit a certified or cashier's check for 2% of the amount of bonds proposed to be sold, to secure the district from any loss resulting from the failure of the bidder to comply with the terms of his or her bid.

(9 Del. C. 1953, § 4640; 56 Del. Laws, c. 103, § 13; 70 Del. Laws, c. 186, § 1.)

## § 4642. Contents of notice of sale — Rejection of proposals.

Each notice of sale shall reserve the right to reject any and all bids and shall state that any bid not complying with the terms of the notice will be rejected.

(9 Del. C. 1953, § 4641; 56 Del. Laws, c. 103, § 13.)

## § 4643. Proposals opened publicly.

All proposals shall be opened publicly at the time and place stated in the notice of sale, and not before, and shall be publicly announced.

(9 Del. C. 1953, § 4642; 56 Del. Laws, c. 103, § 13.)

## § 4644. Private sale to public agencies.

Notwithstanding this or any other law, any bonds may be sold without previous public offering to, and may be purchased by, the Sinking Fund Commission or the Insurance or Pension Fund Commission of the County of Kent, or the State, or may be sold to any agency acting on behalf of the United States of America.

(9 Del. C. 1953, § 4643; 56 Del. Laws, c. 103, § 13.)

## § 4645. Form of bonds.

Bonds may be issued in form payable to bearer with coupons attached for the payment of interest and, if so issued, may be made subject to registration as to principal only or as to both principal and interest.

(9 Del. C. 1953, § 4644; 56 Del. Laws, c. 103, § 13.)

## § 4646. Form of notes.

Notes may be issued in fully registered form; or notes may be issued in form payable to bearer, with interest payable to bearer on presentation for endorsement, and, if so issued, shall be subject to full registration. Interest on notes issued in registered form and interest on bearer notes which have been registered shall be payable to the registered holder.

(9 Del. C. 1953, § 4645; 56 Del. Laws, c. 103, § 13.)

## § 4647. Execution of bonds and notes.

All bonds and notes shall be executed in the name of the County of Kent by such officials, including a financial officer, as may be designated by resolution of the county government, and shall be under the seal or a facsimile seal of the County and attested by the Clerk. Coupons attached to a bond shall be authenticated by the manual signature or the facsimile signature of the financial officer signing the bond.

(9 Del. C. 1953, § 4646; 56 Del. Laws, c. 103, § 13.)

## § 4648. Bonds and notes redeemable prior to maturity.

No bonds or notes shall be made payable on demand, but any bond or note may be made subject to redemption prior to maturity on such notice, at such time or times, with such redemption provisions and at such redemption prices as may be stated in the bond or note. When any such bond or note shall have been validly called for redemption, and any payment of the principal thereof and of the interest thereon accrued to the date of redemption shall have been made or provided for, interest thereon shall cease.

(9 Del. C. 1953, § 4647; 56 Del. Laws, c. 103, § 13.)

## § 4649. Interest rates.

Bonds or notes issued pursuant to this law may bear interest at a rate or rates, without limitation, which may be determined by resolution of the county government.

(9 Del. C. 1953, § 4648; 56 Del. Laws, c. 103, § 13; 57 Del. Laws, c. 602.)

## § 4650. Application of proceeds.

After payment of the reasonable cost of issuance, including printing or engraving costs, advertising expense and legal and other professional expenses, the proceeds of the sale of any bonds or notes shall be applied only to the purpose or purposes for which the obligations were authorized to be issued, and any excess amount thereof or any amount thereof which for any reason is not necessary for any such purpose, shall:

(1) Be applied to payment of such obligations at not more than their face value; and

(2) Be applied to payment of the first maturing installments of such issue.

(9 Del. C. 1953, § 4649; 56 Del. Laws, c. 103, § 13.)

## § 4651. Bonds and notes negotiable.

All bonds and notes of the County issued pursuant to this law, whether payable to bearer or in fully registered form, shall be negotiable instruments.

(9 Del. C. 1953, § 4650; 56 Del. Laws, c. 103, § 13.)

## § 4652. Reconversion of fully registered bonds.

Any bond originally issued in form payable to bearer with coupons attached may contain a provision that, when it has been fully registered, it will, on the written request of the holder thereof, be reconverted, at the expense of such holder, into a new coupon bond by the preparation and substitution of a new bond and coupons for unmatured interest, of the same form and tenor as those originally authorized. Any such bond may again be converted into a fully registered bond and be reconverted into a coupon bond from time to time in the manner herein provided. The resolution of the governing body authorizing any conversion or reconversion shall set forth the date, maturities, interest rate, denominations, and numbers of the old and new bonds and the name of the holder.

(9 Del. C. 1953, § 4651; 56 Del. Laws, c. 103, § 13.)

## § 4653. Reissuance of bonds or notes lost or destroyed.

If lost or completely destroyed, any bond or note may be reissued in the form and tenor of the lost or destroyed bond upon the owner furnishing, to the satisfaction of the governing body:

(1) Proof of ownership;

(2) Proof of loss or destruction;

(3) A surety bond in twice the face amount of the bond and coupons; and

(4) Payment of the cost of preparing and issuing the new bond or note.

(9 Del. C. 1953, § 4652; 56 Del. Laws, c. 103, § 13.)

## § 4654. Reissuance of defaced or partially destroyed bonds or notes.

If defaced or partially destroyed, any bond may be reissued in the form and tenor of the defaced or partially destroyed bond or note, to the bearer, or if registered, to the registered holder, at the expense of such holder, on surrender of the defaced or partially destroyed bond or note, and on such other conditions as the resolution authorizing the reissuance may provide.

(9 Del. C. 1953, § 4653; 56 Del. Laws, c. 103, § 13.)

## § 4655. Certain agreements forbidden.

In the issuance or sale of bonds or notes it shall be unlawful for the governing body, or any member or members thereof, or any official of the County of Kent to:

(1) Agree to pay directly or indirectly any bonus for the issuance or for the sale of the obligations authorized, and every such payment may be recovered by the County in an action at law;

(2) Enter into any agreement with any original purchaser or his or her representative regarding the deposit or disposition of any moneys received or to be received from such sale and every such agreement shall be void;

(3) Enter into any agreement in the nature of a service contract providing for publication of notice of sale, and printing of bonds or notes, and for the providing of a legal opinion or for any technical or advisory services used in connection with the issuance of bonds or notes, unless such agreement provides that any advisor, agent, technician or any other person acting in an advisory capacity agrees not to offer to purchase or to participate in the purchase, or in the distribution of the bonds or notes at public or private sale; and any agreement to the contrary shall be void and any money or compensation paid thereon may be recovered by the County in an action at law.

(9 Del. C. 1953, § 4654; 56 Del. Laws, c. 103, § 13; 70 Del. Laws, c. 186, § 1.)

## § 4656. Payment of bonds and notes.

The power and obligation of the County to pay all bonds and notes hereafter issued by it pursuant to this chapter shall be unlimited. The full faith and credit of the County is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the County hereafter issued pursuant to this chapter whether or not such pledge be stated in the bonds or notes, or in the bond resolution, or note resolution, authorizing their issuance. Bonds or notes issued for the purpose of acquiring, constructing, extending or improving projects authorized by this chapter may be additionally secured by a pledge of the revenue derived from the operation of said enterprise, as may be provided in the bond resolution or note resolution, authorizing the bonds or notes.

(9 Del. C. 1953, § 4655; 56 Del. Laws, c. 103, § 13.)

## § 4657. Appropriation may include engineering and other costs.

In determining the amount to be appropriated for a project pursuant to this chapter, the county government may include the engineering, legal and other professional costs, and other costs of acquisition, construction or reconstruction of the property or improvement to be financed. Interest on notes issued during the construction period may also be financed.

(9 Del. C. 1953, § 4656; 56 Del. Laws, c. 103, § 13.)

## § 4658. Validity of bonds not dependent on preliminary proceedings.

It is the intent of this chapter that the power to issue obligations under this chapter and the validity of the bonds or notes so issued shall not be affected by, or be dependent in any way on the validity or the regularity of any proceedings for the issuance of any bonds or notes to be renewed, extended, retired, funded or refunded by the issuance of such obligations, and shall be independent of the power to make improvements or acquire property and shall not be dependent on or affected by the validity or regularity of any improvements or the acquisition of any property, or the authorization thereof, for the financing of which such bonds or notes are issued, or are to be issued.

(9 Del. C. 1953, § 4657; 56 Del. Laws, c. 103, § 13.)

## § 4659. Legal effect of debt statement.

After the issuance of any bonds or notes in reliance on any debt statement issued by the County, the accuracy and sufficiency of such debt statement shall not be contested by any suit, action or proceeding relating to the validity of such bonds or notes and such bonds or notes shall be presumed to be within all debt or other limitations prescribed by any law of this State.

(9 Del. C. 1953, § 4658; 56 Del. Laws, c. 103, § 13.)

## § 4660. Short period of limitations.

The bond resolution authorizing the issuance of bonds, or any notes issued in anticipation of said bonds, may be contested only if:

(1) Such obligations are authorized for a purpose for which the County is not authorized to expend money;

(2) The provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within 20 days after the date of such publication; or

(3) Such obligations are authorized in violation of the Constitution of this State.

(9 Del. C. 1953, § 4659; 56 Del. Laws, c. 103, § 13.)

## § 4661. Construction of chapter with other laws.

The powers conferred by this chapter shall be in addition to, and not in substitution for, the powers conferred by any other general, special or local law. The powers conferred by this chapter may be exercised notwithstanding that any other general, special or local law may confer such powers, and without regard to the requirements, restrictions, limitations or other provisions contained in such other general, special or local law.

(9 Del. C. 1953, § 4660; 56 Del. Laws, c. 103, § 13.)

# Part III
# Kent County
## Chapter 47
## Garbage Disposal
### Subchapter I
### General Provisions

### § 4701. Acquisition of land; construction and operation of incineration plant; definitions.

(a) The county government may acquire land or any interest therein at any place within the County that it deems advisable and may construct and operate upon the land so acquired an incineration or garbage disposal plant or plants. The county government may enter into contracts and agreements with persons, firms or corporations relative to the purchase of the land and to the building, constructing and equipping of an incineration or garbage disposal plant or plants and may require from such persons, firms or corporations proper security for the faithful performance of the work to be done. The county government may engage the services of competent architects and engineers in connection with the construction of the plant or plants and shall award any contract to the lowest responsible bidder with the right to reject any and all bids.

(b) The words "garbage disposal plant or plants" wherever used in this chapter include incineration, sanitary landfill, garbage grinding plants, composting for disposal of garbage, or any other means of garbage disposal which shall conform with reasonable standards of sanitary engineering.

(9 Del. C. 1953, § 4701; 56 Del. Laws, c. 103, § 14.)

### § 4702. Acquisition of land by purchase.

The county government may acquire the land, or interest therein, by purchase, but not by exercise of the right of eminent domain.

(9 Del. C. 1953, § 4702; 56 Del. Laws, c. 103, § 13.)

### § 4703. Powers of county government as to operation of plant; regulations and charges for service.

(a) The county government may enter into contracts, leases or agreements of any nature pertaining to the operation of the incineration and garbage disposal plant or plants, including the right to sell such portion of land acquired as may not be necessary to use. The power to contract shall include the power to contract with any governmental agency of any sort whatsoever and to receive grants in aid from any such agency or any other person or organization.

(b) The county government may adopt regulations and establish fees and charges for the services rendered by the said incineration and garbage disposal plant or plants.

(9 Del. C. 1953, § 4703; 56 Del. Laws, c. 103, § 14.)

### § 4704. Power to borrow money and issue bonds.

The county government may borrow money upon the faith and credit of the County as provided in this chapter for the purpose of acquiring land and property for the establishment of an incineration and garbage disposal plant or plants and for the construction of such a plant or plants in the County and for the purpose of securing the payment of such sum to issue bonds in such denominations and bearing such rate of interest, not exceeding 3 percent per annum, and in such form as the county government shall deem expedient. The interest upon said bonds shall be payable semiannually in each and every year after the date of issuance thereof.

(9 Del. C. 1953, § 4704; 56 Del. Laws, c. 103, § 14.)

### § 4705. Terms of bonds.

The county government shall decide upon and determine the form and time or times of maturity of the bonds provided that no bond shall be issued for a term exceeding 25 years. The bonds may or may not at the option of the county government be made redeemable at such time or times before maturity, at such price or prices and under such terms and conditions as may be fixed by the county government prior to the issuance of the bonds. The bonds shall contain such other provisions, not inconsistent with the requirements of this chapter, as the county government may deem expedient.

(9 Del. C. 1953, § 4705; 56 Del. Laws, c. 103, § 14.)

### § 4706. Execution and record of bonds.

The bonds shall be prepared under the supervision of the county government and shall be signed by the Receiver of Taxes and County Treasurer, the President of the county government and the clerk of the peace of Kent County, and shall be under the seal used by the county government. Such officers shall execute the bonds when directed by the county government to do so. The Receiver of Taxes and County Treasurer and the county government shall keep a record of the bonds.

(9 Del. C. 1953, § 4706; 56 Del. Laws, c. 103, § 14.)

## § 4707. Sale of bonds.

The bonds or any part thereof may be sold when and as the county government by resolution determines and until sold shall remain in custody of the Receiver of Taxes and County Treasurer. Whenever in the judgment of the county government it is deemed advisable that any part or all of the bonds shall be sold, the county government may sell and dispose of the same at public sale after having advertised the same in the public press at least once each week for at least 2 weeks. No commission or other compensation shall be charged or paid to any members of the county government for effecting the sale or negotiation of such bonds.

(9 Del. C. 1953, § 4707; 56 Del. Laws, c. 103, § 14.)

## § 4708. Principal and interest payments; taxes.

(a) The principal of and interest on the bonds shall be payable when due and payable from money appropriated by Kent County.

(b) The county government in fixing the rate of taxation shall annually provide for a sum equal to the amount of such bonds in addition to the amount necessary to pay the interest upon the unpaid bonds as before provided, which shall, when collected and paid to the Receiver of Taxes and County Treasurer be set apart by him or her in a separate account to be opened for that purpose; and the Receiver of Taxes and County Treasurer shall apply the said sum annually to the payments of such part of said loan and interest thereon as may from time to time become due under the provisions of this chapter.

(9 Del. C. 1953, § 4708; 56 Del. Laws, c. 103, § 14; 63 Del. Laws, c. 142, § 22; 70 Del. Laws, c. 186, § 1.)

## § 4709. Deposit and use of proceeds of sale of bonds.

All money received from the sale of any or all of such bonds, after the payment of the charges and expenses connected with the preparation and sale thereof, shall be deposited by the Receiver of Taxes and County Treasurer in a state or national bank designated by Kent County, to the credit of the county government in a separate account, and payments thereof shall be made in the same manner as other payments by the county government. No part of the money thus obtained, except as in this section provided, shall be used for any other purposes than those stated in this chapter, and the purchasers or holders of the bonds shall not be bound to see to or be affected by the application of the money realized from the sale of the bonds.

(9 Del. C. 1953, § 4709; 56 Del. Laws, c. 103, § 14; 63 Del. Laws, c. 142, § 23.)

# Subchapter II

# Garbage Collections in Unincorporated Areas

## § 4720. Definitions.

As used in this subchapter:

(1) “Garbage” means residential garbage and trash to the exclusion of commercial and industrial refuse.

(2) “Garbage collection district” means an area in Kent County outside of the limits of any incorporated municipality, within ascertainable boundaries, and which is in the opinion of the county government susceptible of efficient and economical garbage collection pursuant to the procedures of this subchapter.

(3) “Garbage collection unit” means each improved parcel of real estate located within the boundaries of a garbage collection district and either used or intended for residential purposes.

(9 Del. C. 1953, § 4720; 58 Del. Laws, c. 221.)

## § 4721. Petition to establish garbage collection district.

Twenty-five real property owners of any area in Kent County contained within ascertainable boundaries and lying outside the limits of any incorporated municipality may petition the Kent County government to declare the area a garbage collection district. The petition shall set forth the boundary lines of the proposed garbage collection district and shall be filed on or before the first Tuesday in any month in any year with the clerk of the peace of Kent County.

(9 Del. C. 1953, § 4721; 58 Del. Laws, c. 221.)

## § 4722. Public hearing.

Upon receipt of the petition, the county government shall hold a public hearing, notice of which shall be published at least once in a newspaper published within the County. Said notice shall be published not more than 21 and at least 10 days before the public hearing and shall contain a description of the boundaries of the proposed garbage collection district and a statement that the county government will hold a hearing to consider whether or not to create the proposed disposal district. The notice shall also state that in the event the county government decides to create the proposed garbage disposal district, the county government will contract for garbage collection and assess the unit costs of garbage collection against each unit of real property used or intended for residential purposes within the garbage collection district.

(9 Del. C. 1953, § 4722; 58 Del. Laws, c. 221; 71 Del. Laws, c. 255, § 1.)

## § 4723. Creation of garbage collection district.

If the county government determines, after a public hearing, that it is in the public interest to create the proposed garbage collection district, it shall pass a resolution to that effect.

(9 Del. C. 1953, § 4723; 58 Del. Laws, c. 221.)

## § 4724. Contracts for garbage collection authorized.

The county government may enter into a contract with any private or public garbage collector to collect the garbage of each garbage collection unit located within the garbage collection district. The mere creation of a garbage collection district pursuant to § 4723 of this title shall not obligate the county government to enter into a contract hereunder if in its opinion the bids received pursuant to § 4725 of this title are too costly.

(9 Del. C. 1953, § 4724; 58 Del. Laws, c. 221.)

## § 4725. Award of contracts.

No contract for garbage collection shall be awarded unless the county government shall publicly invite sealed bids by at least 14 days' notice in a newspaper published within the County. Bids so obtained shall be publicly opened and awarded to the lowest responsible bidder except that the county government may reject any or all bids. The county government may in its specifications include reasonable qualifications for bidders in respect to equipment. The county government may provide for contracts in excess of 1 year and may impose such provisions, conditions and limitations as deemed desirable, including requirements that no 1 bidder may serve the entire county.

(9 Del. C. 1953, § 4725; 58 Del. Laws, c. 221; 60 Del. Laws, c. 329, § 3.)

## § 4726. Levy and collection of garbage collection tax.

(a) In order to pay the annual costs for any garbage collection contract entered into pursuant to § 4724 of this title, the county government shall divide the annual contract cost, plus a pro rata administrative cost as determined by the county government, by the number of garbage collection units within the garbage collection district to arrive at the annual unit cost. The annual unit cost shall then be assessed against each garbage collection unit located within the boundaries of the garbage collection district. No parcel of real estate shall be exempt from paying its annual unit cost because it is uninhabited so long as it is improved and intended for residential use. No parcel of real estate so improved and intended for residential use shall be exempt from paying its annual unit cost because its owner chooses not to use the garbage collection service.

(b) The annual unit cost assessed against each garbage collection unit shall be levied and collected by the Board of Assessment, county government and Receiver of Taxes and County Treasurer at the same time and in the same manner as other county taxes and shall be a lien on real property the same as other county taxes. The tax shall be included on the county tax bills under the heading "garbage collection tax."

(9 Del. C. 1953, § 4726; 58 Del. Laws, c. 221; 59 Del. Laws, c. 198, § 1.)

## § 4727. Administration of funds.

All amounts collected pursuant to this subchapter shall be paid into the general fund of Kent County and all payments for garbage collection shall be paid out of the general fund of Kent County. Should Kent County fail in any 1 year to collect all of the taxes in the garbage collection district necessary to pay the contract price for garbage collection in any year, the county government may pay the deficit out of the general fund pending enforcement of the tax lien. The county government may make payments out of the general fund in anticipation of collection of the garbage collection tax.

(9 Del. C. 1953, § 4727; 58 Del. Laws, c. 221.)

## § 4728. Annual rebidding on contracts [Repealed].

Repealed by 60 Del. Laws, c. 329, § 1, eff. Mar. 26, 1976.

## § 4729. Continuation and termination of contracts; consolidation of garbage collection districts.

Once a garbage collection district has been formed and garbage collection undertaken pursuant to this subchapter, the county government may, without further public hearings, enter into new contracts for garbage collection. However, the county government may determine not to continue garbage collection for any garbage collection district at the expiration of any contract entered into pursuant to this subchapter. The county government may, without further public hearings, consolidate 2 or more garbage collection districts into a single district.

(9 Del. C. 1953, § 4729; 58 Del. Laws, c. 221; 59 Del. Laws, c. 198, § 2; 60 Del. Laws, c. 329, § 2.)

## § 4730. Annual budgeting.

(a) The annual amounts required for garbage collection contracts entered into pursuant to the provisions of this subchapter shall be included in the annual budget request of the office of County Engineer under separate headings for each garbage collection district. After levying the garbage collection tax, the county government shall deliver a separate tax collection warrant together with a list of taxables

for each garbage collection district to the Receiver of Taxes and County Treasurer commanding him or her to collect from the persons named in the said list their garbage collection tax and its amount.

(b) Should a garbage collection district be formed and a garbage collection contract awarded after the commencement of any fiscal year, the county government shall include in the next annual budget an amount sufficient to reimburse the general fund for the expenditure during the last fiscal year as well as an amount sufficient to pay the contract cost for the coming fiscal year. Any contract awarded after the commencement of a fiscal year shall expire at the beginning of the next fiscal year.

(9 Del. C. 1953, § 4730; 58 Del. Laws, c. 221; 70 Del. Laws, c. 186, § 1.)

# Part III
# Kent County
## Chapter 48
## Regional Planning

### § 4801. Definitions.

As used in this chapter, unless the same shall be inconsistent with the context:

(1) "Commission" means "Regional Planning Commission of Kent County" created by this chapter.

(2) "Council" means "the Council of the Mayor and Council of Dover."

(3) "County Engineer" means "County Engineer of Kent County."

(4) "County government" means the county governing body of Kent County.

(5) "District" means "Regional Planning District of Kent County" created by this chapter.

(6) "Highway Department" means "State Department of Transportation of the State of Delaware."

(7) "Land development" means "any tract or parcel of land upon which is proposed the construction or erection of 1 or more commercial, industrial, multi-family, or mobile home park use."

(8) "Minor subdivision" means any subdivision of land that creates 5 or less, or no, parcels of land and if a parcel of land is created, either said created parcel is not on a new road, or said created parcel or parcels is on a private road approved pursuant to regulations adopted by the county government; and shall apply only to the creation of up to a 5 parcel minor subdivision and shall not apply to the creation of parcels in excess of a total of 5 off of the tract of land from which minor subdivision is sought. Original tract shall be deemed to be all tracts separately in existence upon effective date of this definition.

(9) "Recorder's office" means "Recorder of Deeds in and for Kent County."

(10) "Road" includes any "road," "street," "highway," "freeway," "parkway" or other public thoroughfare.

(11) "Subdivision" means division of any part, parcel or area of land by the owner or the owner's agent, into lots or parcels 2 or more in number for the purpose of conveyance, transfer, improvement or sale with or without appurtenant roads, streets, lanes, driveways and ways dedicated or intended to be dedicated to public use, or the use of purchasers or owners of lots fronting thereon. A subdivision includes:

a. Any division of a parcel of land having frontage on an existing improved street into 2 or more lots, 1 or more of which have frontage on the existing street;

b. Any development of a parcel of land which involves installation of streets and driveways whether or not dedicated and whether or not the parcel is divided for the purpose of immediate conveyance, transfer or sale;

c. Any resubdivision and, as appropriate, shall refer to the process of subdividing land or the land so subdivided.

(9 Del. C. 1953, § 4801; 56 Del. Laws, c. 103, § 15; 56 Del. Laws, c. 241, §§ 5, 6; 60 Del. Laws, c. 503, § 22; 67 Del. Laws, c. 167, § 1; 69 Del. Laws, c. 410, § 1; 70 Del. Laws, c. 186, § 1.)

### § 4802. Regional Planning Commission and Regional Planning District; statement of purposes.

For the purpose of promoting health, safety, prosperity and general welfare, as well as for the purpose of securing coordinated plans for roads, airways, railways, public buildings, parks, playgrounds, civic centers, airports, commercial, industrial and residential developments, water supplies, sewers and sewage disposal, drainage and other improvements and utilities (excepting, however, privately owned public utilities engaged in furnishing light, heat, power, transportation or communication by telephone or by telegraph or otherwise, as to which the provisions of this chapter shall not apply) in that portion of Kent County which is not included within the corporate limits of any city or town, unless any territory within such corporate limits is included upon request made by the governing body of authority of any such city or town, and as well as for the purpose of preventing the unnecessary duplication of such improvements or utilities, a department known as the Regional Planning Commission of Kent County is created for the area to be known as the Regional Planning District of Kent County.

(9 Del. C. 1953, § 4802; 56 Del. Laws, c. 103, § 15; 56 Del. Laws, c. 241, § 7.)

### § 4803. Regional Planning Commission.

The county government shall, by ordinance, establish a Regional Planning Commission and determine the membership, terms, qualifications and compensation of said Commission.

(9 Del. C. 1953, § 4803; 56 Del. Laws, c. 103, § 15; 56 Del. Laws, c. 241, §§ 8, 9; 58 Del. Laws, c. 340, §§ 3, 4; 60 Del. Laws, c. 503, § 22; 66 Del. Laws, c. 323, § 1.)

### § 4804. Office space and equipment.

The Kent County government shall provide suitable and convenient office space for the use and occupancy of the Commission, and the county government shall furnish and supply all necessary equipment for the office.

(9 Del. C. 1953, § 4804; 56 Del. Laws, c. 103, § 15; 58 Del. Laws, c. 340, § 5; 66 Del. Laws, c. 323, § 2.)

## § 4805. Secretary of Commission and other personnel.

(a) The Commission shall appoint a secretary who shall serve for such time, and perform such duties and receive such compensation as the Commission may prescribe. The secretary shall give bond if required by the Commission in such amount as the Commission may require.

(b) The Commission may appoint, discharge at pleasure and fix the compensation of such employees and staff or may contract for the services of such persons, firms, or corporations as from time to time, in its judgment may be necessary to the exercise of its powers under this chapter; provided, however, that all actions of the Commission are subject to county government approval, and the county government may require any employee to give bond with surety approved by it in a sum to be fixed by the Commission.

(9 Del. C. 1953, § 4805; 56 Del. Laws, c. 103, § 15; 70 Del. Laws, c. 186, § 1.)

## § 4806. Assistance to Commission by County and City of Dover.

The county government or council may, from time to time, upon request of the Commission and for the purpose of special surveys, assign or detail to the Commission any members of the administrative staffs or agencies of the county or city, or may direct any such staff or agency to make for the Commission special surveys or studies requested by the Commission.

(9 Del. C. 1953, § 4806; 56 Del. Laws, c. 103, § 15.)

## § 4807. Master plan of District.

(a) The Commission shall prepare a master plan of the District showing existing and proposed roads included in or likely to be incorporated in the road system, together with the indication of their existing and proposed widths; existing and proposed county parks, playgrounds, parkways, and other recreation places; existing and proposed county airways, aviation fields and other county open places; existing and proposed sites for county buildings; and such other features as may come wholly or partially within county jurisdiction; and in addition, similar elements of the plan existing and proposed within city or town as have or are likely to bear an important relation to the above county features. Such master plan shall be a public record, but its purpose and effect shall be solely as an aid to the Commission in the performance of its duties.

(b) The Commission may, from time to time, amend, extend or add to the master plan.

(c) The master plan may cover areas within the corporate limits of any city or town in Kent County, to the extent that such areas shall be deemed, in the judgment of the Commission, to be related to the planning of the District. The master plan shall have no legal effect in such areas except as in pursuance of a request for the inclusion of such area within the District as provided in § 4802 of this title.

(d) The Commission shall encourage the cooperation of the cities and towns within Kent County in any matter concerning the master plan and, if requested, shall advise the governing body or authority of any city or town in Kent County with respect thereto.

(9 Del. C. 1953, § 4807; 56 Del. Laws, c. 103, § 15.)

## § 4808. Road surveys.

The Commission may, in pursuance of the development and carrying out of its master plan, make from time to time surveys for the exact location of the lines of future roads, road relocations, road extensions, road widenings or narrowings in the District or any portion thereof, and make plats of the areas thus surveyed, showing the Commission’s recommendations for the exact locations of such future road lines.

(9 Del. C. 1953, § 4808; 56 Del. Laws, c. 103, § 15.)

## § 4809. Official map of the District.

(a) There is established an official map of the District. The Commission shall be the maker and custodian of such map. The map shall show the location and lines of the roads within the District existing and established by law as public roads at the time of the preparation and setting up of the map by the Commission; and shall show the location of the lines of the roads on plats which shall have been approved by the Commission at or previous to that time.

(b) Whenever the Commission shall have adopted an official map or any amendment, extension or addition thereto, it shall submit the official map or such amendment, extension or addition thereto, to the county government for its approval and if the official map or amendment, extension or addition thereto shall pertain to the road system of or any road in Kent County, the official map or any amendment, extension or addition thereto shall also be submitted to the Department of Transportation for its approval and upon approval of the official map or such amendment, extension or addition thereto, the Commission shall cause the official map or such amendment, extension or addition thereto to be recorded in the Recorder’s office within 15 days after such approval.

(c) The Commission may, from time to time, amend, extend, add to or remove from the official map all roads established or vacated by law.

(d) If the State Department of Transportation changes or amends existing roads or adds new roads which vary from the master plan as established pursuant to § 4807 of this title, the Commission shall have the right, after due notice in writing to the Department, to appeal such change or addition, to the State Highway Commissioners in an official meeting of which the public shall be given notice and which the public may attend. After receiving notice in writing of the appeal of the Regional Planning Commission, the State Highway Commissioners and their employees will refrain from execution of plans changing or adding roads in variance from the aforesaid master plan until the appeal has been heard and a written decision rendered by the said State Highway Commissioners. That decision may be

summarily appealed to the Superior Court which shall have the power to enjoin further action by all parties until a determination is reached by that Court as to whether the promotion of the health, safety, prosperity and general welfare of the citizens of this State and of Kent County are better served by compliance with the aforesaid master plan or by granting the change or addition desired by the State Department of Transportation.

(9 Del. C. 1953, § 4809; 56 Del. Laws, c. 103, § 15; 60 Del. Laws, c. 503, § 22.)

## § 4810. Subdivision plans; land development plans; road plats; submission to Commission; recording; fees; regulations.

(a) Plans depicting the location, proposed grades, and drainage of all roads intended to be dedicated by the owner thereof to the public use or for the use of owners of property abutting thereon or adjacent thereto, and plats of all subdivisions and land developments, within the limits of the District, shall be submitted to the Commission for its approval. No person shall record any plan showing any new or proposed road or any plat showing any new or proposed subdivision or land development, in any public office in Kent County, unless such plan or plat shall show thereon by endorsement its approval by the Commission; expressly provided, however, said endorsement of approval for minor subdivision shall be by administrative Commission staff pursuant to minor subdivision regulations which the county government is hereby authorized and directed to adopt. The Commission's approval of any road plan shall, when recorded, be deemed and taken as an acceptance of the intended dedication of the road appearing thereon, but shall not impose any duty upon the county government or upon the Department of Transportation respecting the maintenance or improvement thereof. Such road plan shall, when recorded, become a part of the official map. The county government may adopt such regulations as are deemed advisable for the removal of snow from the streets appearing on the plan from the time the plan is recorded until the obligation to maintain such improvements is assumed either by a maintenance corporation or by an appropriate public agency.

(b) No plat of land showing any new or proposed subdivision or land development within the District shall be received, filed, or recorded by the Recorder of Deeds in and for Kent County until the plat shall have been submitted to and approved by the Commission and such approvals endorsed in writing on the plat by the Director of Planning Services and the County Administrator. The filing or recording of a subdivision or land development plat without the approval of the Commission and/or without the endorsements of the Director of Planning Services and the County Administrator shall, upon application of the Commission or the county government to the Superior Court in and for Kent County, be expunged from the records maintained by the Recorder of Deeds.

(c) On the basis of the estimated cost of the services to be rendered by it in connection with the consideration of such plats and the work incident thereto, the Commission may fix the scale of fees to be paid to it and may from time to time amend such scale. In the case of each plat submitted to the Commission, the fee thus fixed shall be paid before the plat is approved or disapproved, but such fees shall not exceed the actual cost to the Commission of the services and shall be paid by the person requesting the Commission's approval.

(d) Every such plat shall be prepared upon cloth of such size and character, with such notations, information and markings, and accompanied by such data and information as the Commission may, by regulation prescribe, and shall have such permanent markers, boundary stones or stations as the Commission shall prescribe, which shall be shown and designated on the plat thereof. The Commission shall prescribe the procedure for the submission of such plats and action in respect thereto, which shall include certification by a registered engineer or land surveyor as to the proper location on the plat of the aforesaid boundary markers, boundary stones or stations.

(9 Del. C. 1953, § 4810; 56 Del. Laws, c. 103, § 15; 56 Del. Laws, c. 241, §§ 10, 11; 60 Del. Laws, c. 503, § 22; 69 Del. Laws, c. 410, § 2; 70 Del. Laws, c. 255, § 2; 77 Del. Laws, c. 175, §§ 1, 2.)

## § 4811. Approval or disapproval of plat by Commission; hearing.

The Commission shall approve, approve with conditions, disapprove or table a plat within 45 days after acceptance by the Commission of the plat and all necessary supporting documentation; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission upon demand. Such period may be extended by mutual agreement between the Commission and the applicant for the Commission's approval. The grounds of disapproval of any plat shall be stated upon the records of the Commission and a copy of such statement shall be furnished to the applicant. No plat shall be acted upon by the Commission without affording a hearing thereon, notice of the time and place of which shall be sent by registered mail to such applicant not less than 5 days before the date fixed therefor. However, in the application the applicant may waive the requirement of such hearing and notice. Any approval or disapproval, after its recordation by the Commission, may be appealed to the county government within 30 days. County government shall affirm or deny, in whole or in part, the decision of the Regional Planning Commission, or remand the matter to the Regional Planning Commission for further proceedings. However, a decision of the Regional Planning Commission may not be remanded to that Commission by the county government more than 1 time.

(9 Del. C. 1953, § 4811; 56 Del. Laws, c. 103, § 15; 67 Del. Laws, c. 168, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 297, § 1.)

## § 4812. Recording unapproved plan; penalty for.

Any Recorder who receives for filing or recording any plan or map contrary to the provisions of this chapter shall be fined not less than $100 nor more than $500.

(9 Del. C. 1953, § 4812; 56 Del. Laws, c. 103, § 15.)

## § 4813. Cooperation with other agencies.

(a) Upon the request of the county government or the Council or the Department of Transportation or the Department of Health and Social Services or any other state, county or municipal agency, board, department, commission or authority, the Commission shall, upon such terms as may mutually be agreed upon, prepare plans and supply information relating to any of the matters set forth in this chapter.

(b) In exercising the powers conferred by this chapter the Commission is empowered to act in conjunction and cooperation with representatives, agencies, or officers of the United States government, this State, any other state, or any county, city or town within or without this State.

(9 Del. C. 1953, § 4813; 56 Del. Laws, c. 103, § 15; 60 Del. Laws, c. 503, § 22; 70 Del. Laws, c. 149, § 4.)

## § 4814. Entry upon land; access to records.

(a) In the performance of the functions and duties of the Commission any member thereof or any employee or agent thereof shall have the right to enter and go upon, at reasonable times (Sundays and holidays excluded) between the hours of 8:00 a.m. and 5:00 p.m. any lands in the District, either public or private, and to make surveys and to place and maintain necessary monuments and markers thereon, but such entry shall be made with due care and regard for the protection and preservation of property.

(b) In the performance of the functions and duties of the Commission, any member, employee or agent of the Commission shall have free access, without expense, to all state, county, municipal and other public records.

(9 Del. C. 1953, § 4814; 56 Del. Laws, c. 103, § 15.)

## § 4815. Appropriation; authority to make.

The county government may annually appropriate a sum not exceeding $200,000 for the purpose of carrying out this chapter, to be paid as other county expenses out of moneys collected for taxes for county purposes.

(9 Del. C. 1953, § 4815; 56 Del. Laws, c. 103, § 15; 60 Del. Laws, c. 233, § 1.)

## § 4816. Issuance of building and occupancy permits.

(a) No building permit shall be issued by the County for the erection of any building or for the construction of any improvement, utility or structure on any part of any land which is required to be submitted to the Commission as provided in § 4810 of this title after the adoption of regulations, and no street, right-of-way, sanitary sewer, storm sewer, water main, or other improvements in connection therewith shall be constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except pursuant to an approval received for the road, subdivision or land development plan in accordance with the provisions contained in this chapter.

(b) No occupancy permit shall be issued for such building, improvement, utility or structure, or land thereunder, except upon a determination of full compliance with the road, subdivision or land development plan approval.

(c) Except in instances in which the Department of Transportation has indicated authorization for temporary use of land set aside for future right-of-way needs, as provided in § 145 of Title 17, no building permit shall be issued by the County for the erection of any building or for the construction of any improvement, or structure on any part of any land which lies, or is located, within the lines of any land designated and set aside for future highway right-of-way needs as appears on the Department's Future Right-of-Way Map — Final, except as hereinafter provided in subsection (d) of this section.

(d) A building permit, otherwise issuable except for subsection (c) of this section, shall be issued notwithstanding the provisions of subsection (c) of this section unless the Department, after being given written notice thereof by the Commission shall:

(1) Within 60 days of receipt of such notice, file with the Commission a declaration that:

a. The issuance of the permit will be detrimental to future highway planning and construction; and

b. That the land described in the permit application is needed for future highway purposes; and

(2) Within 180 days of the giving of such notice, institute condemnation proceedings under Chapter 61 of Title 10, to acquire all of the land described in said building permit application as may be located within said future highway right-of-way.

(9 Del. C. 1953, § 4816; 56 Del. Laws, c. 103, § 15; 56 Del. Laws, c. 241, § 12; 57 Del. Laws, c. 754, §§ 5, 6; 60 Del. Laws, c. 503, § 22.)

## § 4817. Powers and duties of municipal corporations not affected.

Nothing contained in this chapter shall change, alter, affect, or modify the rights, powers and duties heretofore conferred upon any municipal corporation over, in or upon any lands lying outside of the corporate limits of municipal corporations.

(9 Del. C. 1953, § 4817; 56 Del. Laws, c. 103, § 15.)

## § 4818. Appeals from county government decisions.

All decisions of the county government pursuant to applications made under this chapter are appealable to the Superior Court of Kent County; and when such appeal has been filed with the Prothonotary of Kent County, the Prothonotary shall give notice to the Clerk of

the Peace of Kent County who shall transmit to the Prothonotary within 10 days the written decision of the county government, which decision shall set forth the legal and factual basis for the refusal of the county government to permit the recording of the plat in the manner requested.

(9 Del. C. 1953, § 4818; 57 Del. Laws, c. 710.)

## § 4819. Notice to local school districts of residential subdivision plans or changes in residential subdivision plans that increase density.

With respect to the initial approval of a residential subdivision plan or any change in a residential subdivision plan that increases residential density, the county government shall notify the local school district for the area at least 7 days prior to any such approval process.

(66 Del. Laws, Sp. Sess., c. 195, § 2.)

# Part III
# Kent County
## Chapter 49
## Zoning
## Subchapter I
## General Provisions

### § 4901. Power of county government; area subject to regulation.

(a) The county government may, in accordance with the conditions and procedure specified in this subchapter, regulate the location, height, bulk and size of buildings, parking areas, and other structures, the percentage of lot which may be occupied, the size of yards, courts, and other open spaces, the density and distribution of population, the location and uses of buildings, parking areas, and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, residence, parking, recreation, public activities, water supply conservation, soil conservation, or other similar purposes, in any portion or portions of Kent County which lie outside of incorporated municipalities, or incorporated municipalities without zoning provisions, notwithstanding any provisions of other titles or chapters of this Code to the contrary. Any real property proposed to be used for an agritourism activity as defined in this title shall be given an expedited review before the Levy Court.

(b) Notwithstanding subsection (a) of this section, no such regulation or regulations shall apply to any land, building, greenhouse or other structure proposed to be devoted to any agricultural use, or which is devoted at the time of such proposal to agricultural use, or to any land, building, greenhouse or other structure owned by a cooperative agricultural associations or a corporation which is or is proposed to be devoted to agricultural use. For the purposes of this subsection, any land, building, greenhouse or structure shall be deemed to be devoted to agricultural use if:

(1) The land, building, greenhouse or structure is assessed pursuant to § 8335 of this title;

(2) The land, building, greenhouse or structure is within an Agricultural Preservation District pursuant to Chapter 9 of Title 3;

(3) The person who owns, leases or otherwise controls the land, building, greenhouse or structure is required to implement a nutrient management plan or agricultural waste management plan for the same and the land, building, greenhouse or structure itself is devoted to or used in the production for sale of plants and animals useful to man, including but not limited to:

a. Forages and sod crops;

b. Grains and feed crops;

c. Dairy animals and dairy products;

d. Poultry and poultry products;

e. Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals;

f. Bees and apiary products;

g. Fish, hydroponic and aquacultural products;

h. Fur animals; and

i. Trees and forest products;

(4) The land, building, greenhouse or structure is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government; and

(5) The land, building or structure is a farm market or roadside stand provided:

a. The products offered for sale are grown or produced on the subject farm or lands in agriculture production associated with such farm operation; or

b. The products are grown or produced on a local regional farm, and such farm market or roadside stand shall comply with the following provisions:

1. All buildings, structures and associated canopies shall comply with the building height setback requirements established by the local jurisdiction within its zoning ordinances. All construction shall conform to applicable building codes and building permit requirements as enacted by the local jurisdiction;

2. Off street customer parking shall be provided in accordance with the provisions of the zoning ordinance of the local jurisdiction provided that at least 1 parking space shall be provided for each 100 square feet of floor area of the establishment. The area of 1 parking space shall be equivalent to a standard parking stall of 9# x 18#;

3. If a new vehicular entrance is proposed to support a farm market or roadside stand, an entrance permit shall be obtained from the Delaware Department of Transportation prior to the start of construction; and

4. Signage shall comply with signage provisions and permitting requirements established by the local jurisdiction within its zoning ordinances.

(c) Notwithstanding subsection (a) of this section, no such regulation or regulations shall apply to the agricultural uses of conducting hayrides, horseback riding, guided tours, barn parties and petting zoos.

(9 Del. C. 1953, § 4901; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, c. 207, § 1; 74 Del. Laws, c. 144, § 2; 75 Del. Laws, c. 244, §§ 3, 4; 76 Del. Laws, c. 409, § 3; 78 Del. Laws, c. 143, §§ 1-3; 80 Del. Laws, c. 141, § 2.)

## § 4902. Zoning plan and regulations.

(a) For any or all of the purposes specified in § 4901 of this title the county government may divide the territory of Kent County into districts or zones of such number, shape, or area as it may determine, and within such districts, or any of them, may regulate the erection, construction, reconstruction, alterations, and uses of buildings and structures and the uses of land.

(b) All such regulations shall be uniform for each class or kind of buildings throughout any district, but the regulations in 1 district may differ from those in other districts.

(c) The county government shall provide for the manner in which regulations shall be enforced and shall designate the administrator of the regulations. The administrator so designated shall have authority to act as such throughout the County.

(9 Del. C. 1953, § 4902; 56 Del. Laws, c. 103, § 16.)

## § 4903. Purposes of regulations.

(a) Regulations adopted by the county government, pursuant to the provisions of this subchapter, shall be designated and adopted for the purpose of promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of this State, including, amongst other things, the lessening of congestion in the streets or roads or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, preventing on the 1 hand excessive concentration of population and on the other hand excessive and wasteful scattering of population or settlement, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and provide adequate provisions for public requirements, transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supply, protection of the tax base, securing economy in governmental expenditures, fostering the State's agricultural and other industries, and the protection of both urban and nonurban development.

(b) The regulations shall be made with reasonable consideration, among other things, of the character of the particular district involved, its peculiar suitability for particular uses, the conservation of property values and natural resources and the general and appropriate trend and character of land, building and population development.

(9 Del. C. 1953, § 4903; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, c. 207, § 1.)

## § 4904. Kent County Zoning Commission; consolidation with Regional Planning Commission.

(a) In order to avail itself of the powers conferred by this subchapter, the county government shall appoint a commission of 5 members which shall be known as the Kent County Zoning Commission. Each member shall be appointed for a term of 6 years except that a member appointed to fill a vacancy occurring for any reason other than expiration of term, shall be appointed for the unexpired term.

(b) Each member shall be a freeholder and resident of Kent County, 4 of whom shall live outside any incorporated city or town. No more than 3 of the members of the Commission shall be of the same political party. Originally 3 members shall be appointed for 3 years, and the remaining 2 for 6 years so that at any biennial election, no more than 3 members shall be up for appointment. Members of the Regional Planning Commission otherwise qualified, shall be eligible for appointment to the Kent County Zoning Commission.

(c) Upon adoption of permanent zoning regulations by the county government, the Zoning Commission shall cease to exist and the members of the Zoning Commission shall become voting members of and shall serve out their terms on the Kent County Regional Planning Commission. Upon expiration of the said original terms, reappointment or appointment of new members shall be in accordance with the terms established for members of the Regional Planning Commission. Following consolidation with the Zoning Commission, the Kent County Regional Planning Commission shall henceforth exercise all of the powers and duties herein set forth for the Zoning Commission.

(9 Del. C. 1953, § 4904; 56 Del. Laws, c. 103, § 16; 56 Del. Laws, c. 241, § 13; 58 Del. Laws, c. 340, § 1; 66 Del. Laws, c. 207, § 1.)

## § 4905. Assistance from and cooperation with other agencies.

The Zoning Commission shall make use of the expert advice and information which may be furnished by appropriate state, federal, or other officials, departments and agencies. All officials, departments, and agencies within the State having information, maps and data pertinent to county zoning shall make the same available for the use of the Zoning Commission, as well as furnish such other technical assistance and advice as they may have available for such purpose.

(9 Del. C. 1953, § 4905; 56 Del. Laws, c. 103, § 16.)

## § 4906. Personnel and office facilities of Zoning Commission.

The Zoning Commission may employ such experts, trained personnel, and staff as the funds provided therefor may permit. The county government shall furnish the Zoning Commission with appropriate office space and other facilities. The county government may pay to

the Regional Planning Commission of Kent County for salaries and other expenses of the Zoning Commission an amount based upon a proportionate use of personnel and facilities of the Regional Planning Commission by the Zoning Commission.

(9 Del. C. 1953, § 4906; 56 Del. Laws, c. 103, § 16.)

## § 4907. Tentative zoning plan; preparation of by Commission.

The Zoning Commission shall make, as promptly as possible, for certification to the county government, a zoning plan or plans, including both the full text of the zoning regulation or regulations and the maps, and representing the recommendations of the Zoning Commission for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, for the location and use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and for the uses of land for trade, industry, recreation, public activities, soil conservation, water supply conservation or other similar purposes.

(9 Del. C. 1953, § 4907; 56 Del. Laws, c. 103, § 16.)

## § 4908. Public hearing and notice.

When the efforts of the Commission shall have reached the stage of a tentative plan, the Commission shall hold at least 1 public hearing on each tentative plan to be separately submitted, notice of which hearing shall be published at least 15 days before the date of the hearing in a newspaper of general circulation in the County. The notice shall contain the time and place of hearing, and shall specify the place and times at which the tentative text and maps of the zoning regulations may be examined.

(9 Del. C. 1953, § 4908; 56 Del. Laws, c. 103, § 16.)

## § 4909. Commission's powers in conduct of public hearing.

For the purpose of any public hearing under this subchapter, the Commission shall have the power to summon witnesses, administer oaths, and compel the giving of testimony.

(9 Del. C. 1953, § 4909; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, c. 207, § 1.)

## § 4910. Adoption by county government of zoning plan and regulations; public hearing and notice; consultative hearings; resubmission to Commission.

(a) After receiving the certification of a zoning plan from the Zoning Commission and before the adoption of any zoning regulations, the county government shall hold a public hearing thereon, the time and place of which at least 30 days notice shall be given by 1 publication in a newspaper of general circulation in the County. Such notice shall state the place at which the text and maps as certified by the Zoning Commission may be examined.

(b) The county government may conduct consultative hearings to aid it in determining the desirability of contemplated or recommended regulations.

(c) No change in or departure from text or maps, as certified by the Zoning Commission, shall be made unless such change or departure shall first be submitted to the Zoning Commission for its approval or disapproval or suggestions. The Zoning Commission shall have 45 days from and after such submission within which to send its report to the county government, but the county government shall not be bound by the report.

(9 Del. C. 1953, § 4910; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, Sp. Sess., c. 201, § 2.)

## § 4911. Changes in zoning district; plan or regulations; procedure.

(a) The county government may, from time to time, make amendments, supplements, changes or modifications (herein called "changes") with respect to the number, shape, boundary or area of any district or districts, or any regulation of, or within, such district or districts, or any other provision of any zoning regulation or regulations, but no such changes shall be made or become effective until the same shall have been proposed by or be first submitted to the Zoning Commission.

(b) With respect to any proposed changes, the Zoning Commission shall hold at least 1 public hearing, notice of which hearing shall be published at least 15 days before the date of the hearing in a newspaper of general circulation in the County. The notice shall contain the time and place of hearing, and shall specify the nature of the proposed change in a general way and shall specify the place and times at which the text and map relating to the proposed change may be examined.

(c) Unless the Zoning Commission shall have transmitted its report upon the proposed changes within 45 days after acceptance of a completed application including all supporting documentation, by the Commission, the county government shall be free to proceed to the adoption of the changes without further awaiting the receipt of the report of the Zoning Commission. In any event, the county government shall not be bound by the report of the Zoning Commission. Before finally adopting any such changes, the county government shall hold a public hearing thereon, at least 15 days notice of the time and place of which shall be given at least 1 publication in a newspaper of general circulation in the County.

(9 Del. C. 1953, § 4911; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, Sp. Sess., c. 201, § 3; 67 Del. Laws, c. 166, § 1.)

## § 4912. Zoning coordination and integration.

The Zoning Commission may cooperate with other planning and zoning commissions within Kent County, and within other counties and states, and with the planning, zoning, legislative and administrative authorities of incorporated or unincorporated municipalities, either within or without such County, with a view to coordinating and integrating the zoning of the County with the planning and zoning of other counties or of municipalities. The Zoning Commission shall also have power to appoint such committee or committees, and adopt such rules for the conduct of its business, as it may deem proper to effect such cooperation or to more expeditiously and effectively perform its functions.

(9 Del. C. 1953, § 4912; 56 Del. Laws, c. 103, § 16.)

## § 4913. Board of Adjustment.

The county government shall, by ordinance, establish a Board of Adjustment and determine the membership, terms, qualifications and compensation of said Board.

(9 Del. C. 1953, § 4913; 56 Del. Laws, c. 103, § 16; 56 Del. Laws, c. 241, § 14; 66 Del. Laws, c. 321, § 1.)

## § 4914. Board of Adjustment — Office and personnel.

The county government shall furnish the Board of Adjustment with necessary office space and other facilities. Subject to the approval of the county government, the Board may employ such secretarial and technical assistants as may be required to perform its functions properly.

(9 Del. C. 1953, § 4914; 56 Del. Laws, c. 103, § 16.)

## § 4915. Board of Adjustment — Rules governing organization, procedure and jurisdiction.

The county government shall provide and specify in its zoning or other regulations, general rules to govern the organization, procedure and jurisdiction of the Board of Adjustment, which rules shall not be inconsistent with this subchapter, and the Board of Adjustment may adopt supplemental rules of procedure not inconsistent with this subchapter or such general rules.

(9 Del. C. 1953, § 4915; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, c. 207, § 1.)

## § 4916. Appeals to the Board of Adjustment — Procedure.

(a) Appeals to the Board of Adjustment may be taken by any person refused a building permit, or from the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning regulations. Appeals to the Board of Adjustment may be taken by any officer, department, board or bureau of the County affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning regulations.

(b) The time within which such appeal must be made, and the effect, form, or other procedure relating thereto, shall be specified in the general rules provided by the county government to govern the procedure of the Board of Adjustment or in the supplemental rules of procedure adopted by the Board.

(9 Del. C. 1953, § 4916; 56 Del. Laws, c. 103, § 16.)

## § 4917. Appeals to the Board of Adjustment — Powers.

Upon appeals the Board of Adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning regulations;

(2) To hear and decide, in accordance with the provisions of any zoning regulations, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which the Board is authorized by any zoning regulation to pass;

(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation adopted under this subchapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship; provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and zoning regulations.

(9 Del. C. 1953, § 4917; 56 Del. Laws, c. 103, § 16; 66 Del. Laws, c. 207, § 1.)

## § 4918. Court review of decision of Board of Adjustment; proceedings.

(a) Any persons jointly or severally aggrieved by any decision of the Board of Adjustment or any taxpayer or any officer, department, board or bureau of the County may present to the Superior Court in and for Kent County, a petition duly verified, setting forth that such

decision is illegal in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board.

(b) Upon the presentation of the petition, the Court may allow a writ of certiorari, directed to the Board of Adjustment, to review the decision of the Board of Adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the Court.

(c) The allowance of the writ shall not stay proceeding upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

(d) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(e) If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made.

(f) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(g) Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(9 Del. C. 1953, § 4918; 56 Del. Laws, c. 103, § 16; 70 Del. Laws, c. 186, § 1.)

## § 4919. Enforcement; remedies.

(a) The enforcement of any code or regulation adopted by the county government under the authority of this subchapter shall be as prescribed by the county government by ordinance.

(b) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used, in violation of this subchapter or of any regulation or provision of any regulation or change thereof, enacted or adopted by the county government, the attorney thereof, or any owner of real estate within the district in which such building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(9 Del. C. 1953, § 4919; 56 Del. Laws, c. 103, § 16; 65 Del. Laws, c. 304, § 2; 66 Del. Laws, c. 207, § 1.)

## § 4920. Nonconforming uses of land or buildings.

(a) The lawful use of a building or structure, or the lawful use of any land, as existing and lawful at the time of the enactment of a zoning regulation, or in the case of a change of regulations, then at the time of such change, may, except as hereinafter provided, be continued although such use does not conform with the provisions of such regulations or change, and such use may be extended throughout the same building, provided no structural alteration of such building is proposed or made for the purpose of such extension. The county government in any zoning regulations may permit the restoration, reconstruction, extension or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning regulations.

(b) If the County acquires title to any property by reason of tax delinquency and such properties are not redeemed as provided by law, the future use of such property shall be in conformity with the then existing provisions of the zoning regulations of the County, or with any change of such regulations, equally applicable to other like properties within the district in which the property acquired by the County is located.

(9 Del. C. 1953, § 4920; 56 Del. Laws, c. 103, § 16.)

## § 4921. Appropriations.

The county government may appropriate out of the general county fund such moneys, otherwise unappropriated, as it may deem fit to finance the work of the Zoning Commission and of the Board of Adjustment, and may enforce the zoning regulations and restrictions which are adopted, and may accept grants of money and service for these purposes, and other purposes, in accordance with this chapter, from either private or public sources, state or federal.

(9 Del. C. 1953, § 4921; 56 Del. Laws, c. 103, § 16; 58 Del. Laws, c. 340, § 2; 66 Del. Laws, c. 207, § 1.)

## § 4922. Conflict between zoning regulations and other laws.

(a) Whenever any regulations made under authority of this subchapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute or local regulations, the provisions of the regulations made under authority of this subchapter shall govern. Whenever the provisions of any other statute or local regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or a lesser number of stories, or require a greater

percentage of lot to be left unoccupied, or impose other higher standards than are required by any regulations made under authority of this subchapter, the provisions of such statute shall govern.

(b) Whenever any other statute shall derogate from this subchapter, unless it be a statute granting powers to the State Planning Office, this subchapter shall govern.

(9 Del. C. 1953, § 4922; 56 Del. Laws, c. 103, § 16; 58 Del. Laws, c. 340, § 2; 66 Del. Laws, c. 207, § 1.)

### § 4923. Residential facilities for persons with disabilities.

(a) For purposes of all county zoning ordinances a residential facility licensed or approved by a state agency serving 10 or fewer persons with disabilities on a 24-hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For the purposes of this section, the term "persons with disabilities" includes any persons with a handicap or disability as those terms are defined in the Delaware Fair Housing Act (Chapter 46 of Title 6).

(62 Del. Laws, c. 390, § 2; 74 Del. Laws, c. 149, §§ 4-6.)

### § 4924. Notice to local school districts of residential zoning changes.

With respect to any proposed residential zoning change, the county government shall notify the local school district for the area at least 7 days prior to the initial hearing upon such residential zoning change.

(66 Del. Laws, Sp. Sess., c. 195, § 1.)

### § 4925. Changes in zoning.

In the case of a rezoning application the county government shall determine its voting requirement necessary to take action thereon, which shall not be less than a majority of all members elected to Levy Court.

(68 Del. Laws, c. 272, § 2.)

### § 4926. Notice to property owners of zoning changes.

With respect to any proposed zoning change, unless the owner applies for the change or consents to the change, the county government shall notify the owner of the property and all adjacent property owners to the extent and in the manner the county by ordinance so provides as of June 28, 2000, mailed at least 7 days prior to the initial hearing upon such zoning change.

This act shall become effective for zoning changes initiated after July 13, 2000.

(72 Del. Laws, c. 415, § 2.)

### § 4927. Emergency Communication Systems [Effective until Feb. 1, 2027].

The zoning ordinance and regulations adopted pursuant to this chapter shall provide that newly constructed buildings of 25,000 square feet of gross floor area or more, shall be designed, constructed and/or equipped in accordance with the provisions set forth in § 2616 of this title.

(76 Del. Laws, c. 181, § 2.)

### § 4927. Emergency Communication Systems [Effective Feb. 1, 2027].

The zoning ordinance and regulations adopted pursuant to this chapter shall provide that newly constructed, modified, or renovated buildings of 25,000 square feet of gross floor area or more, shall be designed, constructed and/or equipped in accordance with the provisions set forth in § 2616 of this title.

(76 Del. Laws, c. 181, § 2; 85 Del. Laws, c. 296, § 2.)

## Subchapter II

## The Quality of Life Act

### § 4951. Short title; intent and purpose.

(a) This subchapter shall be known and may be cited as the "Quality of Life Act of 1988." It is the purpose of this subchapter to utilize and strengthen the existing role, processes and powers of county governments in the establishment and implementation of comprehensive planning programs to guide and control future development. It is the intent of this subchapter to encourage the most appropriate use of land, water and resources consistent with the public interest and to deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of county government can preserve, promote and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention and general welfare; facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing and other requirements and services; and conserve, develop, utilize and protect natural resources within their jurisdictions.

(b) It is also the intent of this subchapter to encourage and assure cooperation between and among municipalities, counties and the State and to encourage and assure coordination of planning and development activities of units of county government, municipalities, regional

agencies and state government in accord with applicable provisions of law. A growth management plan or policy plan that meets the standards and requirements of this subchapter shall be an acceptable comprehensive plan. The land use map or map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with county land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(66 Del. Laws, c. 207, § 1.)

## § 4952. Definitions.

For the purposes of this subchapter:

(1) "Area" or "area of jurisdiction" means the total area qualifying under the provisions of this subchapter, being all unincorporated lands within a county.

(2) "Comprehensive plan" or "comprehensive development plan" shall mean, from and after the respective dates by which the counties must be in compliance with this subchapter, a plan that meets the requirements of this subchapter and that is reviewed and certified in accordance with § 9103 of Title 29. Wherever in this subchapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive plan. Whenever in this subchapter land use orders, permits or zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean only that such orders, permits and changes must be in conformity with the map or map series of the comprehensive plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.

(3) "Coordination" as used in this chapter means, in general terms, to act jointly, concurrently, and/or harmoniously toward a common end or purpose.

(4) "County" means Kent County.

(5) "Developer" means any person, including a governmental agency, undertaking any development as defined in this subchapter.

(6) "Development" means any construction or reconstruction of any new or existing commercial or residential building(s) or structure(s) upon lands which are not owned by the State or its agencies or its political subdivisions, or are not within the jurisdictional control of the State or its agencies or its political subdivisions.

(7) "Development order" means any order granting, denying or granting with conditions an application for a development permit.

(8) "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certificate of occupancy, special exception, variance or any other official action of local government having the effect of permitting the development of land.

(9) "Governing body" means the chief governing body of county government, however designated, or the combination of such bodies where joint utilization of the provision of this subchapter is accomplished as provided herein.

(10) "Governmental agency" means:

a. The United States or any department, commission, agency or other instrumentality thereof.

b. This State or any department, commission, agency or other instrumentality thereof.

c. Any local government, as defined in this section, or any department, commission, agency or other instrumentality thereof.

d. Any school board or other special district, authority or governmental entity.

(11) "Land" means the earth, water and air, above, below or on the surface, and includes any improvements or structures customarily regarded as land.

(12) "Land development regulation commission" means a commission designated by a county government to develop and recommend, to the local governing body, land development regulations which implement the adopted comprehensive plan and to review land development regulations, or amendments thereto, for consistency with the adopted plan and to report to the governing body regarding its findings. The responsibilities of the land development regulation commission may be performed by the local planning agency.

(13) "Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any county government zoning, rezoning, subdivision, building construction or sign regulations or any other regulations controlling the development of land.

(14) "Land use" means the development that has occurred on the land, the development that is proposed by a developer on the land or the use that is permitted or permissible on the land under an adopted comprehensive plan.

(15) "Local government" means any municipality.

(16) "Local planning agency" means the agency designated to prepare the comprehensive plan required by this subchapter.

(17) A "newspaper of general circulation" means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices or a newspaper that is given away primarily to distribute advertising.

(18) “Parcel of land” means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

(19) “Person” means an individual, corporation, governmental agency, statutory trust, business trust, estate/trust, partnership, association, 2 or more persons having a joint or common interest or any other legal entity.

(20) “Public facilities” means major capital improvements over which the County has jurisdiction.

(21) “Public notice” or “due public notice” as used in connection with the phrase “public hearing,” “hearing to be held after due public notice” or “public meeting” means publication of notice of the time, place and purpose of such hearing at least twice in a newspaper of general circulation in the area.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 22, 23; 73 Del. Laws, c. 329, § 49; 85 Del. Laws, c. 343, § 2.)

## § 4953. Scope of subchapter.

(a) The County shall have power and responsibility:

(1) To plan for their future development and growth.

(2) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(3) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof. In furtherance of the authority to adopt, amend and implement comprehensive plans or elements or portions thereof to guide and control future growth, counties are expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones or parcels of land to districts, zones or areas designated to receive such development rights. Such regulations may provide for the establishment of development right banking. Whenever a county exercises its authority to provide for the transfer of development rights it shall:

a. Comply with all requirements of this subchapter pertaining to the amendment of a comprehensive plan;

b. Provide for the transfer of development rights as an option to the use and development of the subject property according to the otherwise applicable zoning ordinance;

c. Limit designation of receiving areas to locations where the county has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either the existing or planned public facilities which serve the area to accommodate such growth;

d. Demonstrate that the creation and regulation of both sending and receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plan and statewide planning goals and objectives established pursuant to Chapter 91 of Title 29; and

e. Consider appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with other counties or municipalities which would permit the transfer and use of development rights between counties and municipalities.

(4) To establish, support and maintain administrative instruments and procedures to carry out the provisions and purposes of this subchapter.

(b) Each county government shall prepare a comprehensive plan of the type and in the manner set out in this subchapter or amend its existing comprehensive plan to conform to the requirements of this subchapter.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 24; 72 Del. Laws, c. 122, § 3.)

## § 4954. Areas under this subchapter.

A county shall exercise authority under this subchapter for the total unincorporated area under its jurisdiction.

(66 Del. Laws, c. 207, § 1.)

## § 4955. Local planning agency.

(a) The governing body of each county government shall designate and by ordinance establish a “local planning agency.” The governing body may designate itself as the local planning agency pursuant to this subsection. The local planning agency shall prepare the comprehensive plan after meetings to be held after due public notice and shall make recommendations regarding the adoption of such plan or element or portion thereof. The agency may be a local planning commission, the planning department of the county government or other instrumentality, including a countywide planning entity established by special act or council of local government officials, provided the composition of the council is fairly representative of all the governing bodies in the county.

(b) The governing body or bodies shall appropriate funds for salaries, fees and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purpose and activities authorized by this subchapter, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(c) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(1) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations regarding the adoption of such plan or element or portion thereof consistent with existing county laws or regulations. During the preparation of the plan, and prior to any recommendation for adoption, the local planning agency shall hold at least 1 public hearing or public meeting on the proposed plan or element or portion thereof. The local planning agency may designate any agency, committee, department or person to prepare, revise, monitor and oversee the effectiveness and status of the comprehensive plan or any element thereof. Prior to adoption of the proposed comprehensive plan, the governing body shall hold at least 1 public hearing, with due public notice, on the proposed plan or element thereof. Final recommendation of the adoption of such plan to the governing body shall be in accordance with existing county procedures, or absent such procedures, shall be the responsibility of the local planning agency.

(2) Review proposed land development regulations, land development codes or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan.

(3) Perform any other functions, duties and responsibilities assigned to it by the governing body or special law.

(66 Del. Laws, c. 207, § 1.)

## § 4956. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15, 2026].

(a) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area.

(b) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(c) A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(1) Principles for construction, extension or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(2) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities and projected revenue sources to fund the facilities.

(3) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(4) To the extent provisions of the capital improvements plan anticipate State financial assistance, involvement or cooperation, such provisions shall be developed in conjunction with the state capital improvement plan and annual capital budget.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications which are consistent with the plan, or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(e) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy as the case may require. Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter.

(f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the implementation of the plan and its elements.

(g) The comprehensive plan shall include:

(1) A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land, and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations

of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environment, oil economic data and projections used to determine present conditions, future land use, and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

(2) A mobility element which is consistent with the approved area-wide transportation plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved area-wide wastewater treatment plans.

(4) A conservation element for the conservation, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, wood uplands, habitat areas, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, silvacultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including but not limited to guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

h. An affordable housing plan that complies with subchapter III of Chapter 92 of Title 29.

(7) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the County, adjacent counties or on the applicable state regulations.

(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and personnel utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations. The economic development element shall be developed in consultation with and reviewed by the Division of Small Business.

(11) An educational element consistent with the plans of the local school districts which guide the construction and allocation of school facilities within the districts, if such plans exist. This element will be developed with input from the local school districts, the Department of Education, and the Office of State Planning and Coordination. The educational element shall include recommendations for promoting coordination between residential development and adequate school capacity and must take into account any adequate public facilities ordinance or other county code provisions related to school capacity.

(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency.

(i) [Transferred to § 4957(a) of this title.]

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 270, §§ 25-35; 74 Del. Laws, c. 186, § 8; 78 Del. Laws, c. 92, § 9; 81 Del. Laws, c. 49, § 12; 81 Del. Laws, c. 374, § 41; 83 Del. Laws, c. 434, § 2; 85 Del. Laws, c. 343, § 2.)

## § 4956. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

(a) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area.

(b) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(c) A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(1) Principles for construction, extension or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(2) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities and projected revenue sources to fund the facilities.

(3) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(4) To the extent provisions of the capital improvements plan anticipate State financial assistance, involvement or cooperation, such provisions shall be developed in conjunction with the state capital improvement plan and annual capital budget.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications which are consistent with the plan, or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(e) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the County, adjacent counties and applicable state regulations and policy as the case may require. Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter.

(f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the implementation of the plan and its elements.

(g) The comprehensive plan shall include:

(1) a. A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental, and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

b. The future land use plan must reflect strategies which consider community resiliency and reduce the vulnerability of property, agriculture, infrastructure, and cultural and natural resources to the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events. The strategies must be informed by the Delaware Climate Action Plan and implementation reports as amended and in consultation with the Office of State Planning and Coordination.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, walking trails, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices and consider alternatives to auto-centric development patterns, including transit services, where applicable for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment and consider the designated evacuation routes as set forth by the appropriate state agencies.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved area-wide wastewater treatment Plans.

(4) A conservation element for the conservation, restoration where appropriate, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, forests, uplands, habitat areas, and wildlife corridors, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area. Anticipated growth scenarios must be in conformance with the strategies reflected in the future land use plan and encourage development of new housing growth away from areas vulnerable to inland and coastal flooding.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to ensure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

h. An affordable housing plan that complies with subchapter III of Chapter 92 of Title 29.

(7) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the County, adjacent counties or on the applicable state regulations.

(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and personnel utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations. The economic development element shall be developed in consultation with and reviewed by the Division of Small Business.

(11) An educational element consistent with the plans of the local school districts which guide the construction and allocation of school facilities within the districts, if such plans exist. This element will be developed with input from the local school districts, the Department of Education, and the Office of State Planning and Coordination. The educational element shall include recommendations for promoting coordination between residential development and adequate school capacity and must take into account any adequate public facilities ordinance or other county code provisions related to school capacity.

(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency.

(i) [Transferred to § 4957(a) of this title.]

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 270, §§ 25-35; 74 Del. Laws, c. 186, § 8; 78 Del. Laws, c. 92, § 9; 81 Del. Laws, c. 49, § 12; 81 Del. Laws, c. 374, § 41; 83 Del. Laws, c. 434, § 2; 85 Del. Laws, c. 343, § 2; 84 Del. Laws, c. 397, § 2.)

## § 4957. State responsibilities to local planning agencies.

(a) All elements of the comprehensive plan shall be based upon data appropriate to the element involved. State agencies shall provide to each county upon request existing data or information necessary to expedite the development and preparation of the comprehensive plan and elements of this section. Surveys and studies utilized in the preparation of the comprehensive plan shall not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys and supporting documents shall be made available to public inspection, and shall be made available to the public upon payment of reasonable charges for reproduction. The County shall be relieved of any requirement to comply with the data and information requirements of this subchapter when the State is unable to supply the necessary data and information to implement that requirement, except when such data and information is currently available or readily accessible to the County within budgetary limitations.

(b) The State, through the Office of State Planning Coordination, shall provide to the County, for use in the comprehensive planning process, state land use and development goals and policies, state regulatory requirements, estimates of future state financial capabilities, the State Capital Improvements Budget and Plan, State facility location plans, estimates of existing quantity of natural resources, economic development strategies and any other information which might reasonably influence the County's future land use decisions. The State shall provide the County with long-range plans, performance standards, land development polices, facility siting criteria and infrastructure impact assessment standards (necessary to ensure the availability of public facilities and the adequacy of those facilities), so as to enable the county to prepare the plan elements required by § 4956 of this title and to clearly set forth the criteria the State will use to review such elements. The review by the Cabinet Committee on State Planning Issues shall be pursuant to § 9103 of Title 29. During preparation of the county comprehensive plan, the county and the State shall jointly establish guidelines for the location and arrangement of public

facilities, such as public schools, health care facilities, public safety and correctional institutions, libraries and other public buildings. Such guidelines shall be used to coordinate between the various levels of government so as to ensure that public buildings and facilities are located in a manner which are consistent with state and county development goals.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 35, 36; 74 Del. Laws, c. 186, § 9; 78 Del. Laws, c. 92, § 10.)

## § 4958. Evaluation and appraisal of comprehensive plan.

(a) The comprehensive plan or amendments or revisions thereto shall be submitted to the Governor or designee at such time as the plan is made available for public review. The County shall provide sufficient copies for review by the Cabinet Committee on State Planning Issues. Within 30 days of plan submission, the Cabinet Committee on State Planning Issues shall conduct a public meeting, at which time the County shall make a presentation of the plan and its underlying goals and development policies. Following the public meeting the plan shall be subject to the state review and certification process set forth in § 9103 of Title 29.

(b) This State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the county where the County's adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with State development policies, including policies related to affordable housing.

(c) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare a report on the progress of implementing the comprehensive plan, which shall be sent to the Office of State Planning Coordination each year after adoption of the comprehensive plan. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012. The Cabinet Committee shall forward the report to the Office of State Planning Coordination, which will evaluate it in the context of state goals, policies and strategies, and the plans of other jurisdictions. The Office of State Planning Coordination will integrate the information, land use trends, and changing conditions found in the County's report into the annual report of the Cabinet Committee, which is to be prepared as specified in § 9101(d), Title 29. It is the intent of this subchapter that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster ongoing coordination.

(d) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations or other forms) related to:

(1) The major problems of development, physical deterioration and the location of land uses and the social and economic effects of such uses in the area.

(2) The condition of each element in the comprehensive plan at the time of adoption and at date of report.

(3) The comprehensive plan objectives as compared with actual results at date of report.

(4) The extent to which unanticipated and unforeseen problems and opportunities occurred between date of adoption and date of report.

(e) The report shall include reformulated objectives, policies and standards in the comprehensive plan or elements or portions thereof.

(f) The Cabinet Committee may prescribe a format and guidelines for the preparation of the County's report. Should the Cabinet Committee elect to do so, the Office of State Planning Coordination shall assist the Committee in the development and administration of such guidelines.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 35, 37-39; 73 Del. Laws, c. 186, § 3; 74 Del. Laws, c. 186, §§ 8, 10, 11; 78 Del. Laws, c. 92, §§ 11-14; 85 Del. Laws, c. 343, § 2.)

## § 4959. Legal status of comprehensive plan.

(a) After a comprehensive plan or element or portion thereof has been adopted by County Council or Levy Court in conformity with this subchapter, the land use map or map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(b) Nothing in this subchapter shall serve to invalidate any comprehensive plan, land development regulation, land use, development, development order or development permit which presently exists or which hereafter validly comes into existence prior to the date when full compliance with this subchapter is required.

(c) Any application for a development permit filed or submitted prior to adoption or amendment under this subchapter of a comprehensive plan or element thereof shall be processed under the comprehensive plan, ordinances, standards and procedures existing at the time of such application.

(d) All development permits and development orders heretofore or hereafter validly issued or approved by county government and not thereafter limited, rescinded or restricted shall automatically be incorporated into and become part of the present and all future comprehensive plans, subject to whatever time limitations may otherwise apply to such permits and orders at the time of issuance or approval.

(e) In the event that any comprehensive plan or element required to comply with this subchapter shall be determined as failing to comply herewith, such failure shall not invalidate those elements of the plan which do comply with this subchapter, nor invalidate any previously

issued development permit or order that was not specifically and timely challenged in the legal action in which such noncompliance was determined.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 35.)

## § 4960. County comprehensive plan.

(a) The County shall submit a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than 5 years after the adoption of the current plan; provided, however, that the County may request an extension of such date by forwarding a written request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision and other land use decisions. Such plan shall be updated every 10 years thereafter.

(b) Once the county government shall have in place said comprehensive plan, the County shall not be permitted to amend such plan without a simple majority of the entire membership thereof voting to do so.

(c) Within 1 year of the date of adoption of the county plan, the County shall initiate an implementation program regarding subdivision and development controls. The County shall report the status of the implementation program in the monitoring report as required by this subchapter. This report should include progress to date, problems, issues and opportunities.

(d) Subsequent amendments to the county comprehensive plan required by this chapter shall be submitted to the Cabinet Committee on State Planning Issues for review and certification pursuant to § 9103 of Title 29.

(e) Within 12 months of the date of adoption of the county comprehensive plan or revision thereof, Kent County shall amend its official zoning map(s) to rezone all lands in accordance with the uses and intensities of uses provided for in the future land use element for the County.

(1) In the event that the County does not complete the rezoning required under this subsection within the required 12-month period, a rezoning application filed by a property owner shall be approved by the County if the requested zoning classification is consistent with the future land use map or map series and applicable implementing provisions of the comprehensive plan, unless the County makes written findings, based on substantial evidence in the record, that 1 or more of the following apply:

a. The requested zoning classification is inconsistent with the future land use map or map series or applicable implementing provisions of the comprehensive plan.

b. The application fails to satisfy applicable procedural or submission requirements.

(2) The County shall determine whether a rezoning application filed by a property owner under paragraph (e)(1) of this section is complete within 21 days of submission. If the County does not issue a written completeness determination within 21 days, the application is deemed complete.

(3) The County shall take final action on the rezoning application within 120 days after the application is determined or deemed complete, unless the applicant agrees in writing to an extension. Final action on any associated site plan is not subject to the 120-day timeline.

(4) If the County denies a rezoning application under this subsection, the denial must be in writing and must identify the specific future land use map designation or statutory standard upon which the denial is based.

(5) If a public hearing was held in connection with adoption of the comprehensive plan or revision of the comprehensive plan, that hearing shall satisfy all hearing and notice requirements otherwise required under this title. This provision does not prevent a local land use agency from adopting hearing and notice requirements.

(f) In the event that the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the County, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.

(66 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 270, §§ 35, 40, 41; 73 Del. Laws, c. 186, § 4; 74 Del. Laws, c. 186, §§ 8, 12; 78 Del. Laws, c. 92, §§ 15, 16; 78 Del. Laws, c. 129, § 2; 85 Del. Laws, c. 343, § 2.)

## § 4961. Information from state and local agencies and school districts.

(a) All subdivision plans approved by the county government shall be filed with the Office of the Recorder of Deeds, and with such other state and local agencies as the County may by ordinance require.

(b) As part of its review of a rezoning or subdivision application, the county government through its designated local planning agency shall request and review information from all state and local agencies and local school districts identified on a list prepared by the County and shall file as part of the record any written information provided by such state and local agencies or local school districts with respect to the rezoning or subdivision application. If the planning agency makes recommendations that are in conflict with the information supplied by state and local agencies or local school districts, it must explain its reasons for doing so in writing.

(c) Any state or local agency or local school district which delivers to the head of county government a written request that it be notified of rezoning and subdivision applications shall be included on the County's list of agencies and school districts from which information shall be requested and reviewed in accordance with subsection (b) of this section.

(66 Del. Laws, Sp. Sess., c. 198, § 1; 70 Del. Laws, c. 270, § 35.)

## § 4962. Highway capacity; traffic impact study requirements.

(a) The county government shall not approve any proposed change in the zoning classification for land (i.e., any "rezoning request"), a new roadway access associated with site development, or for any other purpose without first complying with either the procedures contained in paragraphs (a)(1)a. through (a)(1)d. of this section or the procedures contained in paragraphs (a)(2)a. through (a)(2)c. of this section:

(1) a. As soon as possible, but in any event no later than June 30, 2027, the county government, through its designated planning agency, shall establish an agreement with the Department of Transportation to provide a procedure for analysis by the Department of Transportation of the effects on traffic of each rezoning application.

b. Each agreement under paragraph (a)(1)a. of this section shall be approved by a resolution or ordinance, consistent with county procedures, and shall establish traffic level of service suitable to the County and the Department of Transportation.

c. The purpose of the agreement under paragraph (a)(1)a. of this section shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the County and to allow for analysis to assess whether the County's approval of a change to the zoning classifications for land, a new roadway access associated with site development, or for any other purpose will create a new financial or infrastructure obligation to this State that is not consistent with the current edition of the Strategies for State Policies and Spending.

d. The agreement under paragraph (a)(1)a. of this section shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought.

(2) a. The Levy Court, through its local planning agency, shall establish an agreement with the Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and 2104 of Title 2.

b. The local planning agency shall hold at least 1 public hearing on the proposed agreement created under paragraph (a)(2)a. of this section and public comment must be permitted at the public hearing.

c. The local planning agency shall provide due public notice of the public hearing required by paragraph (a)(2)b. of this section at least twice, the first notice at least 60 days prior to the public hearing and the second notice at least 30 days prior to the public hearing.

(b) If the Levy Court enacts an ordinance, or a county agency adopts a regulation, that imposes a traffic impact study for a proposed change in the zoning classification for land, a new roadway access associated with site development, or for any other purpose, the ordinance or regulation must at least provide the following:

(1) That the threshold for determining if a traffic impact study is required must be based on peak hour trips, not vehicle trips per day, and the threshold must at least meet the following:

a. For a residential development, 500 peak-hour trips.

b. For a commercial development, 500 peak-hour trips, excluding pass-by trips.

(2) That the traffic impact study is not required in a "Downtown Development District" or "Downtown Development Corridor," as defined under § 1902 of Title 22.

(66 Del. Laws, c. 217, § 1; 70 Del. Laws, c. 270, § 35; 80 Del. Laws, c. 224, § 3; 85 Del. Laws, c. 344, § 4.)

## § 4963. Residential density requirements.

(a) For purposes of this section, "growth area" means an area designated within a county comprehensive plan as a growth area and also consistent with areas identified by the Strategies for State Policies and Spending for growth as Investment Levels 1 and 2, or any successor classifications adopted by this State.

(b) Notwithstanding § 4901(a) of this title, this subchapter, or any provision of this Code to the contrary, and subject to subsection (c) of this section, a county government shall adopt zoning ordinances and land development regulations within a growth area that do all of the following:

(1) Permit a variety of housing types, including townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential developments.

(2) Establish bulk, dimensional, and design standards that reasonably accommodate the housing types permitted under paragraph (b)(1) of this section at densities established in paragraph (c)(2) of this section.

(3) Encourage development patterns that reduce vehicular trips, increase pedestrian connectivity, support transit-oriented development, and promote mixed-use development consistent with guidance issued by the Department of Transportation.

(c) By June 1, 2027, by regulation, or in the county's comprehensive plan if due that same year, and thereafter at least once every 10 years in the county's comprehensive plan, a county government shall adopt residential growth area density requirements to do all of the following:

(1) Based on the guidance under subsection (e) of this section, develop and periodically update residential density requirements applicable to growth areas throughout the county, beginning with a minimum density threshold of 4 units per acre for single family homes and increasing minimum density thresholds for other housing types.

(2) Require residential development meet density requirements while recognizing that varying development densities may be appropriate within different portions of a designated growth area of the county.

(3) Encourage compact, infrastructure-efficient, and housing-supportive development patterns within growth areas of the county.

(d) Each time the comprehensive plan adopted under subsection (c) of this section is approved, the county government shall issue updated regulations or ordinances effectuating the residential growth area density requirements, which must be developed in consultation with the following, or a designee of the following:

(1) The Director of the State Housing Authority.

(2) The Secretary of the Department of Transportation.

(3) The Director of the Office of State Planning Coordination.

(4) The President of the Delaware League of Local Governments.

(5) The Governor.

(e) The Delaware State Housing Authority shall develop guidance for residential density requirements applicable to growth areas throughout this State starting with a minimum density threshold of 4 units per acre for single family homes and increasing minimum density thresholds for other housing types. The guidance must include all of the following:

(1) Recommendations for permitting a variety of housing types, including townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential development.

(2) Recommendations for establishing bulk, dimensional, and design standards that reasonably accommodate the housing types permitted under paragraph (e)(1) of this section.

(3) Recommendations, developed in consultation with the Department of Transportation, for development patterns that reduce vehicular trips, increase pedestrian connectivity, support transit-oriented development, and promote mixed-use development.

(85 Del. Laws, c. 344, § 5.)

## Subchapter III

## Citizens Bill of Rights Act

### § 4999. Court review of land use actions; limitations on liability of individuals and associations.

Any individual or association of individuals that challenges or opposes a zoning, subdivision or other land use application, and seeks judicial review of a decision concerning the application in a manner prescribed by statute, shall not be liable to any other party to the judicial review for seeking such a review, except for such costs as are expressly provided for by the rules of court.

(66 Del. Laws, Sp. Sess., c. 200, § 1.)

# Part III
# Kent County

## Chapter 50
## County Engineer and Other Employees

### § 5001. Appointment of County Engineer; draftsmen; rodmen and assistants [Repealed].

(9 Del. C. 1953, § 5001; 55 Del. Laws, c. 217; repealed by 83 Del. Laws, c. 144, § 2, effective Sept. 10, 2021.)

# Part III
# Kent County

## Chapter 51
## Street and Highway Lighting

### § 5101. Lighting streets and highways in unincorporated communities and villages; petition.

Upon the petition of a majority of the real property owners of any unincorporated community or village in Kent County, filed on or before the first Tuesday in any month in any year, the county government may enter into a contract with any electric, gas or other lighting company to light and illuminate the streets or highways running through, bounding and within the community or village, with electric light, gas light, or other illuminant. The petition of the property owners shall set forth the boundary lines of the community to be lighted. The petition shall state whether the light tax levied pursuant to § 5102 of this title shall be prorated among the owners of the property subject to said tax or based upon the assessment for county purposes. Street lights shall be of such candlepower, electric or its equivalent in other illuminating mediums as determined by the county government. The county government may enter into contracts for additional lights or may change the location of any lights theretofore located and may levy and collect additional tax for the payment of the same.

(9 Del. C. 1953, § 5101; 57 Del. Laws, c. 458; 58 Del. Laws, c. 26, §§ 1, 2.)

### § 5102. Levy and collection of light tax.

(a) The county government, for the purposes of carrying out any contract entered into pursuant to § 5101 of this title, shall levy for the installation and maintenance of such lights in any such community with respect to which such a contract has been entered into, an annual tax based upon the full annual cost of street and highway illumination upon all real property within the boundary lines of the community or village as set forth in the petition provided for by § 5101 of this title, which tax according to the instructions set forth in the petition filed pursuant to § 5101 of this title shall be prorated among the owners of such property or based upon the assessment for county purposes. No such taxes shall be levied against farmland.

(b) Such taxes shall be collected by the same collector, at the same time and in the same manner as other county taxes.

(9 Del. C. 1953, § 5102; 57 Del. Laws, c. 458; 58 Del. Laws, c. 26, § 3; 66 Del. Laws, c. 324, § 1.)

### § 5103. Light tax; administration of fund; surplus.

The Department of Finance shall receive all light taxes collected, shall keep them in a separate account, and shall pay them out only upon orders signed by the President of the county government and approved by the Director of Finance. They shall receive no additional compensation for the performance of any duty required of them or any of them under this section. If, after payment of all contracts entered into pursuant to this chapter, there remains a surplus in the light account, the surplus shall be applied to reduce the light tax rate for the succeeding taxable year.

(9 Del. C. 1953, § 5103; 57 Del. Laws, c. 458; 80 Del. Laws, c. 209, § 5.)

### § 5104. Removal of lights.

Lights installed under the provisions of § 5101 of this title shall be removed by the county government or at its direction only upon receipt of a petition signed by a majority of the property owners within the bounds of any lighted community or village requesting such removal.

(9 Del. C. 1953, § 5104; 57 Del. Laws, c. 458.)

# Part III
# Kent County
## Chapter 52
## Stormwater Management

### § 5201. Definitions.

As used in this chapter:

(1) "Stormwater maintenance district" means an area in Kent County, within ascertainable boundaries, and which is in the opinion of the county government susceptible of efficient and economical stormwater maintenance pursuant to the procedures of this chapter.

(2) "Stormwater management" means:

a. For water quantity control, a system of vegetative, structural, and other measures that controls the volume and rate of stormwater runoff which may be caused by land disturbing activities or activities upon the land; and

b. For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

(79 Del. Laws, c. 149, § 1.)

### § 5202. Establishing a stormwater maintenance district.

(a) Real property owners of any area in Kent County contained within ascertainable boundaries may petition the Kent County government to declare the area a stormwater maintenance district. The petition shall set forth the boundary lines of the proposed stormwater maintenance district and be submitted according to the criteria established by the county government.

(b) Any new applicable subdivision or land development approved following the adoption of Kent County's implementing ordinance shall establish a stormwater maintenance district as a condition of approval. Fees for the district shall not be incurred until the subdivision or land development is complete and the stormwater infrastructure approved by the appropriate regulating agency.

(c) Kent County may establish a stormwater maintenance district within an incorporated area using the same submission process only with the concurrence of the local governing body.

(79 Del. Laws, c. 149, § 1.)

### § 5203. Public hearing.

Upon receipt of the petition, the county government shall hold a public hearing, notice of which shall be published at least once in a newspaper published within the County. Said notice shall be published not more than 21 and at least 10 days before the public hearing and shall contain a description of the boundaries of the proposed stormwater maintenance district and a statement that the county government will hold a hearing to consider whether or not to create the proposed district. The notice shall also state that in the event the county government decides to create the proposed stormwater maintenance district, the county government will assess the unit costs of stormwater maintenance against each unit of real property used or intended for residential purposes within the stormwater maintenance district.

(79 Del. Laws, c. 149, § 1.)

### § 5204. Creation of stormwater maintenance district.

(a) If the county government determines, after a public hearing, that it is in the public interest to create the proposed stormwater maintenance district, it shall pass a resolution to that effect.

(b) The creation of a stormwater maintenance district and the resulting infrastructure maintenance managed by the County shall take precedence over any homeowner obligation for stormwater management included in declarations of restrictions or similar development agreements. Any common open space or infrastructure within a community not maintained as part of a stormwater maintenance district shall remain the responsibility of the homeowners.

(79 Del. Laws, c. 149, § 1.)

### § 5205. Agreements for stormwater maintenance authorized.

The county government may enter into an agreement with the Kent Conservation District or other government, nonprofit, or for-profit agency or organization to maintain the stormwater infrastructure of each stormwater maintenance district.

(79 Del. Laws, c. 149, § 1.)

### § 5206. Award of contracts.

Either Kent County or the Kent Conservation District may enter into contracts for maintenance of stormwater infrastructure that cannot be completed by existing staff. All such contracts shall follow applicable state and local laws and policies.

(79 Del. Laws, c. 149, § 1.)

## § 5207. Levy and collection of stormwater maintenance fee.

(a) In order to fund the annual and long-term costs for each stormwater maintenance district, the county government shall establish a fee structure for each district and divide the annual cost, plus a pro rata administrative cost as determined by the county government, by the number of dwelling units within the stormwater maintenance district to arrive at the annual unit cost. The annual unit cost shall then be assessed against each unit located within the boundaries of the stormwater maintenance district. No parcel of real estate shall be exempt from paying its annual unit cost. The established fee structure need not be uniform among districts.

(b) The annual unit cost assessed against each unit shall be levied and collected by the Board of Assessment and county government at the same time and in the same manner as other county taxes and shall be a lien on real property the same as other county taxes. The fee shall be included on the county tax bills under the heading “stormwater maintenance fee.”

(79 Del. Laws, c. 149, § 1.)

## § 5208. Administration of funds.

All amounts collected pursuant to this chapter shall be paid into the general fund of Kent County and all payments for stormwater maintenance shall be paid out of the general fund of Kent County. Should Kent County fail in any 1 year to collect all of the taxes in the stormwater maintenance district necessary to pay the price for stormwater maintenance in any year, the county government may pay the deficit out of the general fund pending enforcement of the tax lien. The county government may make payments out of the general fund in anticipation of collection of the stormwater maintenance tax.

(79 Del. Laws, c. 149, § 1.)

## § 5209. Continuation and termination of contracts; consolidation of stormwater maintenance districts.

The county government may determine not to continue stormwater maintenance for any stormwater maintenance district at the expiration of any agreement entered into pursuant to this chapter. The county government may, without further public hearings, consolidate 2 or more stormwater maintenance districts into a single district.

(79 Del. Laws, c. 149, § 1.)

## § 5210. Annual budgeting.

(a) The annual amounts required for stormwater maintenance pursuant to the provisions of this chapter shall be included in the annual budget under separate headings for each stormwater maintenance district. After levying the stormwater maintenance fee, the county government shall deliver a separate fee collection warrant together with a list of taxables for each stormwater maintenance district to the County Finance Director commanding him or her to collect from the persons named in the said list their stormwater maintenance fee and its amount.

(b) Should a stormwater maintenance district be formed after the commencement of any fiscal year, the county government shall include in the next annual budget an amount sufficient to reimburse the general fund for the expenditure during the last fiscal year as well as an amount sufficient to pay the cost for the coming fiscal year.

(79 Del. Laws, c. 149, § 1; 70 Del. Laws, c. 186, § 1.)

# Part III
# Kent County

## Chapter 53
## Single Family Mortgage Revenue Bonds

### § 5301. Authority to issue.

The Levy Court of Kent County, Delaware, is hereby empowered to issue and sell single family mortgage revenue bonds to finance the acquisition of notes secured by mortgages on residential property and the acquisition or rehabilitation of residential property.

(62 Del. Laws, c. 203, § 1.)

### § 5302. Limited obligations.

All bonds issued by Kent County under the authority of this chapter shall be limited obligations of the County payable solely from bond proceeds, revenue and other amounts derived from the mortgage loans with respect to which such bonds are issued. The bonds and coupons, if any, attached thereto shall not constitute an indebtedness, liability, general or moral obligation or pledge of the faith and credit of Kent County, the State or any other political subdivision thereof and the taxing power of Kent County, the State or any political subdivision thereof shall not be pledged to the payment of the principal of, premium, if any, and interest on such bonds. In no event shall the total amount of the bonds issued pursuant to this chapter exceed $50,000,000.

(62 Del. Laws, c. 203, § 1.)

### § 5303. Form; terms.

The bonds issued pursuant to this chapter shall be authorized by resolution of the Levy Court and shall be issued in such form, in such denomination, bear such date, mature at such time, bear such interest rate, be executed in such manner, be payable in such places, be subject to such terms of redemption and bear such other terms as provided in the authorizing resolution.

(62 Del. Laws, c. 203, § 1.)

### § 5304. Conflicting laws.

Notwithstanding any provisions in any law to the contrary, all bonds issued pursuant to the chapter shall be governed solely by this chapter.

(62 Del. Laws, c. 203, § 1.)

# Part III
# Kent County

## Chapter 54
## Kent County Tax Increment Financing Act

(81 Del. Laws, c. 25, § 1.)

### § 5401. Title.

This chapter shall be known as the "Kent County Tax Increment Financing Act."

(81 Del. Laws, c. 25, § 1.)

### § 5402. Definitions.

As used in this chapter:

(1) "Act" means the Kent County Tax Increment Financing Act.

(2) "Adjusted assessed value" means:

a. For real property that qualifies for an agricultural, horticultural, or forest use under § 8329 of this title, the assessed value of the property without regard to its agricultural, horticultural, or forest use assessment as of January 1 of the calendar year preceding the effective date of the resolution creating the TIF District under § 5406 of this title or such later date as may be designated in such resolution by the Levy Court; or

b. In the event the County grants an exemption from taxes, the original assessed value less the assessed value of property granted an exemption.

(3) "Assessed value" means the total assessed value of all real property in a TIF District subject to taxation as determined by the assessor, with any adjustment pursuant to paragraph (2) of this section taken into account.

(4) "Assessor" shall mean the Kent County Assessment Office.

(5) "Bonds" or "bond" means any revenue or general obligation bonds or bond, notes or note, or other similar instruments or instrument issued by the County pursuant to and in accordance with this chapter.

(6) "Chief financial officer" means the Director of the Kent County Department of Finance or the Director's designee designated by the Director of the Kent County Department of Finance.

(7) "County" means Kent County.

(8) "County Administrator" means the Kent County Administrator or the Kent County Administrator's designee designated by the Kent County Administrator.

(9) "Development" means new development, redevelopment, revitalization, or renovation.

(10) "Issuer" means the County when it acts to issue bonds.

(11) "Issuing body" means a municipality or other political subdivision, department or agency of the State (other than the County) when it acts to issue a bond, a note, or other similar instrument.

(12) "Levy Court" means Kent County Levy Court.

(13) "Original assessed value" means the assessed value as of January 1 of the calendar year preceding the effective date of the resolution creating the TIF District under § 5406(1) of this title or such later date as may be designated in such resolution by the Levy Court.

(14) "Other obligations" or "other obligation" means a bond, a note, or other similar instrument issued by an issuing body for any of the purposes stated in § 5405 of this title.

(15) "Tax increment" means for any tax year the amount by which the assessed value as of January 1 preceding that tax year exceeds the original assessed value.

(16) "Tax year" means the fiscal year for the County.

(17) "TIF District" means an area designated by a resolution described in § 5406(1) of this title.

(81 Del. Laws, c. 25, § 1, 70 Del. Laws, c. 186, § 1; 81 Del. Laws, c. 64, § 1; 84 Del. Laws, c. 42, § 1.)

### § 5403. Bonds to finance development of industrial, commercial, or residential area authorized.

In addition to whatever other powers it may have, and notwithstanding any limitation of law, the County may borrow money by issuing and selling bonds, at any time and from time to time, for the purpose of financing the development of an industrial, commercial, or residential area. The issuance of general obligation bonds pursuant to this chapter shall comply with any debt limits otherwise applicable to the County.

(81 Del. Laws, c. 25, § 1.)

## § 5404. Payment of bonds.

Bonds shall be payable from the special fund described in this chapter, and the Levy Court may also establish sinking funds, establish debt service reserve funds, or pledge other assets and revenues towards the payment of the principal, premium, if any, and interest, including special taxes levied and collected pursuant to Chapter 55 of this title.

(81 Del. Laws, c. 25, § 1.)

## § 5405. Application of bond proceeds.

All proceeds received from any bonds issued and sold pursuant to this chapter shall be applied solely for:

(1) The cost of purchasing, leasing, condemning, or otherwise acquiring land or other property, or an interest in them, including finance charges and interest, in the designated TIF District or as necessary for rights-of-way or other easements to or from the TIF District;

(2) Demolition, debris removal, and disposal costs;

(3) Plans, specifications, studies, surveys, forecasts, and estimates of cost and revenues;

(4) Relocation of businesses or residents;

(5) Installation of utilities, construction of parks, playgrounds, recreational areas, establishment of open areas, and other improvements, including streets, roads, signage, landscaping, and pathways to, from, or within the TIF District, parking, lighting, and other facilities;

(6) Maintenance of utilities, parks, playgrounds, recreational areas, open areas, and other improvements, including streets, roads, signage, landscaping, and pathways to, from, or within the TIF District, parking, lighting, and other facilities;

(7) Construction or rehabilitation of buildings, except schools;

(8) Remediation of property, except schools;

(9) Reserves or capitalized interest;

(10) Necessary costs of issuing bonds;

(11) Permissive costs of issuing and servicing bonds, which may include up to 0.5% of the bond issue as origination costs incurred by the County, and up to 2.0% of the bond debt service payments as administrative costs if administered by the County;

(12) Payment of the principal of, premium, if any, and interest on loans, money advanced, or any indebtedness incurred by the County for any of the purposes set out in this section, including the refunding of bonds previously issued under this chapter; and

(13) Any costs permitted under § 5501(3) of this title, and for any purposes described in § 5502(b)(2) of this title; provided, however, that the purpose described in § 5502(b)(2) of this title shall be with reference to the designated TIF District.

(81 Del. Laws, c. 25, § 1.)

## § 5406. Conditions precedent to issuance of bonds.

Before issuing any bonds, the Levy Court shall:

(1) Designate by resolution an area within the County as a "TIF District."

(2) Receive from the assessor a certification as to the amount of the original assessed value.

(3) Pledge that until the bonds have been fully paid, or thereafter, the property taxes on real property within the TIF District shall be divided and applied as follows:

a. That portion of the taxes which would be produced by the rate at which taxes levied each year by or for the County upon the original assessed value shall be allocated to and when collected paid into the funds of the taxing body in the same manner as taxes by or for the taxing body on all other property are paid.

b. That portion of the taxes representing the levy on the tax increment that would normally be paid to the County shall be paid into a special fund to be applied in accordance with the provisions of § 5408 of this title.

c. That portion of the taxes representing the levy on the tax increment that would normally be paid to a taxing body other than the County shall be allocated to and, when collected, paid into the funds of such taxing body in the same manner as taxes by or for the taxing body on all property are paid, or any other manner that public agencies so determine (school districts, etc.); provided, however, if such taxing body has agreed pursuant to § 5410 of this title that such taxes shall be paid into a special fund created in accordance with § 5407 of this title, then such taxes shall be paid into such special fund.

(81 Del. Laws, c. 25, § 1.)

## § 5407. Resolution creating special fund.

The Levy Court may adopt a resolution creating a special fund with respect to a TIF District, even though no bonds authorized by this chapter have been issued by the County with respect to that TIF District or are then outstanding. The taxes allocated to such special fund by § 5406(3)b. or c. of this title shall thereafter be paid over to such special fund as long as such resolution remains in effect.

(81 Del. Laws, c. 25, § 1.)

## § 5408. Uses of special fund.

(a) *Uses of special fund when no bonds outstanding. —*

When no bonds authorized by this chapter are outstanding with respect to a TIF District created pursuant to § 5407 of this title and the Levy Court so determines, moneys in the special fund for that TIF District may be:

(1) Used for any of the purposes described in § 5405 of this title for which bond proceeds could be used;

(2) Accumulated for payment of debt service on bonds subsequently issued under this chapter;

(3) Used to pay or to reimburse the County for debt service which the County is obligated to pay or has paid (whether such obligation is general or limited) on bonds issued by the County, or any agency, department or political subdivision thereof, the proceeds of which have been used for any of the purposes stated in § 5405 of this title, or used to pay or reimburse any developer loan;

(4) Used to pay or to reimburse an issuing body for debt service which the County is obligated to pay (whether such obligation is general or limited) on other obligations under an agreement described in subsection (b) of this section; or

(5) Paid to the County to provide funds to be used for any legal purpose as may be determined by the County.

(b) *Pledge agreement. —*

The County may pledge, by written agreement, that amounts deposited to the special fund created for the TIF District pursuant to § 5407 of this title shall be paid over to secure the payment, or reimbursement of a payment, of debt service on other obligations. Such agreement shall be between the County and the issuing body, and shall run to the benefit of and be enforceable on behalf of any holder, of such other obligations.

(c) *Restrictions on use of special funds. —*

When any bonds authorized by this chapter are outstanding with respect to a TIF District and the Levy Court so determines, moneys in the special fund for that TIF District created pursuant to § 5407 of this title may be used as provided in subsection (a) or (b) of this section in any fiscal year by the County, but only to the extent that:

(1) The amount in such special fund exceeds the unpaid debt service payable on such bonds in such fiscal year and is not restricted so as to prohibit the use of such moneys;

(2) Such use is not prohibited by the ordinance authorizing the issuance of such bonds; and to the extent not prohibited by bond or loan covenants.

(81 Del. Laws, c. 25, § 1.)

## § 5409. Pledge of revenue from taxes on tax increment into other fund.

The County may pledge, by written agreement, that some or all of its property taxes levied on the tax increment shall be paid into a special fund created by an issuing body for the payment or reimbursement of the debt service on other obligations. Such agreement shall be between the County and such issuing body and shall run to the benefit of and be enforceable on behalf of any holder of such other obligations.

(81 Del. Laws, c. 25, § 1.)

## § 5410. Agreements to pay revenue from taxes on tax increment into special fund.

A municipality, school district, or other taxing body that taxes property within the County which is not an issuing body may pledge, by written agreement, that some or all of its property taxes levied on the tax increment shall also be paid into a special fund created pursuant to § 5407 of this title. Such agreement shall be between the County and the taxing body and shall run to the benefit of and be enforceable on behalf of any holder of the bonds.

(81 Del. Laws, c. 25, § 1.)

## § 5411. Ordinance authorizing bonds.

(a) *Mandatory provisions. —*

In order to implement the authority conferred upon it by this chapter to issue bonds, the Levy Court shall adopt an ordinance that:

(1) Specifies and describes the proposed undertaking and states that it has complied with § 5406 of this title;

(2) Specifies the maximum rate or rates of interest the bonds are to bear.

(b) *Additional provisions. —*

The resolution described in § 5407 of this title may itself specify and prescribe, or may authorize the chief financial officer or County Administrator to specify and prescribe, any of the following as it deems appropriate to effect the financing of the proposed undertaking:

(1) The actual principal amount of the bonds to be issued;

(2) The actual rate or rates of interest the bonds are to bear;

(3) The manner in which and the terms upon which the bonds are to be sold;

(4) The manner in which and the times and places that the interest on the bonds is to be paid;

(5) The time or times that the bonds may be executed, issued, and delivered;

(6) The form and tenor of the bonds and the denominations in which the bonds may be issued;

(7) The manner in which and the times and places that the principal of the bonds is to be paid, within the limitations set forth in this chapter;

(8) Provisions pursuant to which any or all of the bonds may be called for redemption prior to their stated maturity dates; or

(9) Such other provisions not inconsistent with this chapter as shall be determined by such legislative body to be necessary or desirable to effect the financing of the proposed undertaking.

(81 Del. Laws, c. 25, § 1.)

## § 5412. Exemption of bonds from taxation.

The principal amount of the bonds, the interest payable thereon, their transfer, and any income derived therefrom, including any profit made in the sale or transfer thereof, shall be exempt from taxation by the State and by the several counties and municipalities of this State.

(81 Del. Laws, c. 25, § 1.)

## § 5413. Nature and incidents of bonds.

(a) *Form of bond; deemed "securities". —*

All bonds shall be in fully registered form. Each of the bonds shall be deemed to be a "security" within the meaning of § 8-102 of Title 6, whether or not it is either 1 or a class or series or by its terms is divisible into a class or series of instruments.

(b) *Signing and sealing. —*

All bonds shall be signed manually or in facsimile by the County Administrator, and the seal of the County shall be affixed thereto and attested by the chief financial officer or other administrative officer of the County. If any officer whose signature or countersignature appears on the bonds ceases to be such officer before delivery of the bonds, that officer's signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if that officer had remained in office until delivery.

(c) *Maturity. —*

All bonds shall mature not later than 30 years from their date of issuance.

(d) *Sale. —*

All bonds shall be sold in such manner, either at public or private sale, and upon such terms as the Levy Court deems best. Any contract for the acquisition of property may provide that payment shall be made in bonds.

(e) *Bonds issued are securities. —*

Bonds issued under this chapter are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, state banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

(81 Del. Laws, c. 25, § 1.)

## § 5414. Taxation of leased property in TIF District.

Whenever the County, as lessor, leases its property within the TIF District, the property shall be assessed and taxed in the same manner as privately owned property, and the lease or contract shall provide that the lessee shall pay taxes or payments in lieu of taxes upon the assessed value of the entire property and not merely the assessed value of the leasehold interest.

(81 Del. Laws, c. 25, § 1.)

## § 5415. TIF District consistency with certified comprehensive plan.

The use of lands in a TIF District shall be consistent with the comprehensive plan for the area as certified pursuant to § 9103(f) of Title 29.

(81 Del. Laws, c. 25, § 1.)

## § 5416. Referendum.

Neither the ordinance authorizing the bonds referred to herein, nor any ordinance, resolution or order passed or adopted in furtherance thereof, nor the bonds themselves or the designation of a TIF District, shall be subject to any referendum by reason of any other state or local law.

(81 Del. Laws, c. 25, § 1.)

## § 5417. Construction of chapter.

This chapter, being necessary for the welfare of the State and its residents, shall be liberally construed to effect the purpose of this chapter.

(81 Del. Laws, c. 25, § 1.)

# Part III
# Kent County

## Chapter 55
## Kent County Special Development Districts

(81 Del. Laws, c. 26, § 1; 81 Del. Laws, c. 26, § 1.)

### § 5501. Definitions.

In this chapter, the following terms shall have the meanings indicated:

(1) “Bonds” or “bond” means a special obligation bond, revenue bond, note, or other similar instrument issued by the County in accordance with this chapter.

(2) “Chief financial officer” means the Director of the Kent County Department of Finance or his or her designee designated by the Director of the Kent County Department of Finance.

(3) “Cost” includes the cost of:

a. Construction, reconstruction, and renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or to be acquired by a municipal, local, county, state, or federal government or any agency, department, or office thereof for a public purpose;

b. All machinery and equipment including machinery and equipment needed to expand or enhance the services of a municipal, local, county, state, or federal government or any agency, department, or office thereof to the special development districts created pursuant to § 5502 of this title;

c. Financing charges and interest prior to and during construction, and, if deemed advisable by the County, for a limited period after completion of the construction, interest, and reserves for principal and interest, including costs of county bond insurance and other type of financial guaranty, liquidity support, and costs of issuance;

d. Extensions, enlargements, additions, and improvements;

e. Architectural, engineering, financial, and legal services;

f. Plans, specifications, studies, surveys, and estimates of cost and of revenues;

g. Administrative expenses necessary or incident to determining to proceed with the improvements, including infrastructure improvements; and

h. Other expenses as may be necessary or incident to the construction, acquisition, financing, and operation of the improvements, including infrastructure improvements, including administrative expenses charged to collect and/or administer the tax revenues.

(4) “County” means Kent County.

(5) “County Administrator” means the Kent County Administrator or his or her designee designated by the Kent County Administrator.

(6) “Issuing body” means a municipality or other political subdivision, department or agency of the State (other than the County) when it acts to issue a bond, a note, or other similar instrument.

(7) “Levy Court” means the Kent County Levy Court.

(8) “Other obligations” or “other obligation” means a bond, a note, or other similar instrument issued by an issuing body for any the purposes stated in § 5502 of this title.

(81 Del. Laws, c. 26, § 1; 70 Del. Laws, c. 186, § 1.)

### § 5502. Special taxes authorized; purpose; requirements and restrictions.

(a) (1) For any purpose stated in paragraph (b)(1) or (2) of this section, the County may:

a. Create a special development district;

b. Levy ad valorem or special taxes; and

c. Issue bonds and other obligations.

(2) For any purpose stated in paragraph (b)(3) of this section, the County may:

a. Create a special development district;

b. Levy ad valorem or special taxes; and

c. Pledge funds under an agreement described in paragraph (b)(3) of this section to secure payment on other obligations.

(3) Before the County may establish a special development district under this chapter, all of the owners of real property in the proposed special development district shall request that the County establish the special development district.

(b) The purpose of the authority granted under subsection (a) of this section is:

(1) To provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration, maintenance, or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, roadways, traffic signals, signage, sidewalks, lighting, parking, parks and recreation facilities, open space, farm land preservation, fire protection facilities, public safety facilities, paramedic facilities, libraries, transit facilities, solid waste facilities, identifying monuments, landscaping of entrances and medians, and other improvements, including infrastructure improvements, as necessary, whether situated within the special development district or outside the special development district if the improvements, including infrastructure improvements, provide service or benefit to the property within the special development district, for the development and utilization of the land, each with respect to any defined geographic region within the County;

(2) To provide financing, refinancing, or reimbursement for the costs associated with tax increment financing undertaken with respect to TIF Districts pursuant to Chapter 54 of this title; and

(3) To pledge under a written agreement the ad valorem or special taxes levied under this chapter to secure the payment, or reimbursement of a payment, of other obligations. Such agreement shall be between the County and the issuing body, and shall run to the benefit of and be enforceable on behalf of any holder, of other obligations.

(81 Del. Laws, c. 26, § 1.)

## § 5503. Authority granted; section self-executing.

(a) In addition to other powers the County may have, and notwithstanding the provisions of any other public local law, or public general law, the County may borrow money by issuing and selling bonds, or impose ad valorem or special taxes under this chapter for any of the purposes stated in § 5502(b) of this title, if a request to the County is made by both:

(1) The owners of at least # of the assessed valuation of the real property located within the special development district; and

(2) At least # of the owners of the acreage located within the special development district, provided that:

a. Multiple owners of a single parcel are treated as a single owner; and

b. A single owner of multiple parcels is treated as 1 owner.

(b) This section is self-executing and does not require the County to enact legislation to exercise the powers granted under this section.

(81 Del. Laws, c. 26, § 1.)

## § 5504. Bonds payable from special fund; complementary powers of governing body; proceeds.

(a) Bonds shall be payable from the special fund required under § 5505 of this title.

(b) If the County issues bonds under this section, the Levy Court may also:

(1) Establish sinking funds for such bonds;

(2) Establish debt service reserve funds for such bonds;

(3) Pledge other assets and revenues towards the payments of the principal of, premium, if any, and interest on such bonds; or

(4) Provide for bond insurance or any other type of credit enhancement or liquidity support of such bonds.

(c) All proceeds received from any bonds issued and sold shall be applied solely to pay costs, including:

(1) Costs of design, construction, establishment, extension, alteration, or acquisition of improvements, including infrastructure improvements;

(2) Costs of issuing bonds;

(3) Payment of the principal and interest on loans, including development loans, money advances, or any indebtedness for any of the purposes stated in § 5502(b)(1) and (2) of this title, including the refunding of bonds previously issued under this chapter;

(4) Funding of a debt service reserve fund or payment of interest prior to, during, or for a limited period of time after construction; and

(5) Purposes described in § 5502(b)(1) and (2) of this title.

(81 Del. Laws, c. 26, § 1.)

## § 5505. Special fund.

(a) By resolution, the Levy Court may:

(1) Designate by resolution an area or areas within the County as a special development district even though no bonds authorized by this chapter have been issued by the County with respect to that special development district or are then outstanding;

(2) Subject to subsection (b) of this section, adopt a resolution creating a special fund with respect to the special development district; and

(3) Provide for the levy of an ad valorem or special tax on all real property within the special development district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, for any other purpose related to the ongoing expenses of or security, including debt service coverage requirements, for the bonds, or to secure payment by the County of its obligations under an agreement described in § 5502(b)(3) of this title. Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same

date or dates of finality as are now or may hereafter be prescribed for general ad valorem real property tax purposes within the district, and shall be discontinued when all of the bonds have been paid in full. Special taxes shall be levied pursuant to § 5513 of this title.

(b) The resolution creating a special fund under paragraph (a)(2) of this section shall:

(1) Pledge to the special fund the proceeds of the ad valorem or special tax to be levied as provided under paragraph (a)(3) of this section; and

(2) Require that the proceeds from the tax be paid into the special fund.

(81 Del. Laws, c. 26, § 1.)

## § 5506. When no bonds or other obligations outstanding.

(a) When no bonds are outstanding, the County may use money in the special fund for payment or reimbursement of debt service on other obligations that the County is obligated to pay under an agreement described in § 5502(b)(3) of this title.

(b) When no bonds are outstanding with respect to a special development district and no other obligations are outstanding:

(1) The special development district shall be terminated; and

(2) Any moneys remaining in the special fund on the date of termination of the special development district shall be paid to the general fund of the County.

(81 Del. Laws, c. 26, § 1.)

## § 5507. Adoption of ordinance to implement authority.

(a) In order to implement the authority conferred upon it by this chapter to issue bonds, the Levy Court shall adopt an ordinance that:

(1) Specifies and describes the proposed undertaking and states that it has complied with § 5505 of this title;

(2) Specifies the maximum principal amount of bonds to be issued;

(3) Specifies the maximum rate or rates of interest for the bonds; and

(4) Agrees to a covenant to levy upon all real property within the special development district, ad valorem taxes or special taxes in rate and amount at least sufficient in each year in which any of the bonds are outstanding to provide for the payment of the principal of, premium, if any, and the interest on the bonds.

(b) The ordinance may specify or may authorize the chief financial officer or County Administrator to specify any of the following, as the chief financial officer or County Administrator deems appropriate, to effect the financing of the proposed undertaking:

(1) The actual principal amount of the bonds to be issued;

(2) The actual rate or rates of interest for the bonds;

(3) The manner in which and the terms upon which the bonds are to be sold;

(4) The manner in which and the times and places that the interest on the bonds is to be paid;

(5) The time or times that the bonds may be executed, issued, and delivered;

(6) The form and tenor of the bonds and the denominations in which the bonds may be issued;

(7) The manner in which and the times and places that the principal of the bonds is to be paid, within the limitations set forth in this chapter;

(8) Provisions pursuant to which any and all of the bonds may be called for redemption prior to their stated maturity dates; or

(9) Any other provisions not inconsistent with this chapter as shall be determined by the Levy Court to be necessary or desirable to effect the financing of the proposed undertaking.

(c) An ordinance authorizing the bonds provided for under this chapter, an ordinance, resolution, or order passed or adopted in furtherance of the required ordinance, the bonds, the designation of a special development district, or the levy of a special ad valorem tax or special tax may not be subject to any referendum by reason of any other state or local law.

(d) The ordinance authorizing the bonds required under this section, any ordinance, resolution, or order passed or adopted in furtherance of the required ordinance, the bonds, or the levy of a special ad valorem tax or special tax shall be subject to the request of the landowners as specified under § 5503(a) of this title.

(81 Del. Laws, c. 26, § 1; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1.)

## § 5508. Taxation of bonds.

The principal amount of the bonds, the interest payable on the bonds, their transfer and any income derived from the transfer, including any profit made in the sale or transfer of the bonds, shall be exempt from taxation by the State and by the counties and municipalities of the State.

(81 Del. Laws, c. 26, § 1.)

## § 5509. Bond form; signatures; maturity; manner of sale.

(a) All bonds shall be in fully registered form. Each of the bonds shall be deemed to be a security as defined in § 8-102 of Title 6, whether or not it is either 1 of a class or series or by its terms is divisible into a class or series of instruments.

(b) All bonds shall be signed manually or in facsimile by the County Administrator, and the seal of the County shall be affixed to the bonds and attested by the chief financial officer or other similar administrative officer of the County. If any officer whose signature or countersignature appears on the bonds ceases to be such officer before delivery of the bonds, the officer's signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until delivery.

(c) All bonds shall mature not later than 30 years from their date of issuance.

(d) All bonds shall be sold in the manner, either at public or private sale, and upon the terms, as the Levy Court deems best. Any contract for the acquisition of property may provide that payment shall be made in bonds.

(81 Del. Laws, c. 26, § 1.)

## § 5510. Bonds issued are securities.

Bonds issued under this chapter are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, state banks and trust companies, national banking associations, savings banks, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

(81 Del. Laws, c. 26, § 1.)

## § 5511. Powers granted are supplemental to other laws.

The powers granted under this chapter shall be regarded as supplemental and additional to powers conferred by other laws, and may not be regarded as in derogation of any powers now existing.

(81 Del. Laws, c. 26, § 1.)

## § 5512. Construction of chapter.

This chapter, being necessary for the welfare of the State and its residents, shall be liberally construed to effect the purpose stated in § 5502(b) of this title.

(81 Del. Laws, c. 26, § 1.)

## § 5513. Special taxes on real property as alternative to ad valorem taxes.

(a) As an alternative to levying ad valorem taxes under this chapter, the Levy Court may levy special taxes on real property in a special development district to cover the cost of improvements, including infrastructure improvements, including but not limited to "costs" defined in § 5501 of this title. In determining the basis for and amount of the tax, the cost of an improvement may be calculated and levied:

(1) Equally per front foot, lot, parcel, dwelling unit, or square foot;

(2) According to the value of the property as determined by the County, with or without regard to improvements on the property; or

(3) In any other reasonable manner that results in fairly allocating the cost of the improvements, including infrastructure improvements.

(b) The Levy Court may provide by ordinance or resolution for:

(1) A maximum amount to be assessed with respect to any parcel or real property located within a special development district;

(2) A tax year or other date after which no further special taxes under this section shall be levied or collected on a parcel; and

(3) The circumstances under which the special tax levied against any parcel may be increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any other parcel within the special development district.

(c) The Levy Court by ordinance or resolution may establish procedures allowing for the prepayment of special taxes under this section.

(d) Special taxes levied under this section shall be collected and secured in the same manner as general ad valorem real property taxes unless otherwise provided in the ordinance or resolution and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for general ad valorem real property taxes.

(81 Del. Laws, c. 26, § 1.)

## § 5514. Bonds not to constitute general obligation debt.

Bonds issued under this chapter are a special obligation of the County and may not constitute a general obligation debt of the County, or a pledge of the County's full faith and credit or taxing power. Bonds are nonrecourse to property owners who purchase property in a special development district. Property owners who purchase property in a special development district shall only be responsible for the payment of ad valorem real property taxes and special taxes levied by the Levy Court pursuant to this chapter.

(81 Del. Laws, c. 26, § 1.)

## § 5515. Special development district consistency with certified comprehensive plan.

The use of lands in a special development district shall be consistent with the comprehensive plan for the area as certified pursuant to § 9103(f) of Title 29.

(81 Del. Laws, c. 26, § 1.)

## § 5516. Limitation on ad valorem or special taxes within Special Development District.

The levy of an ad valorem or special tax pursuant to § 5502(a)(2) or § 5513(a) of this title shall not be applicable to and shall not be imposed on special betterments property as defined in § 8101(e) of this title owned or leased by a "public utility" as defined in § 102 of Title 26.

(81 Del. Laws, c. 26, § 1.)

# Part III
# Kent County

## Chapter 56
## Kent County Property Maintenance

(82 Del. Laws, c. 221, § 1.)

### § 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) "Department of Planning Services" means the Kent County Department of Planning Services.

(4) "Kent County Levy Court" means the Levy Court for Kent County.

(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.

(82 Del. Laws, c. 221, § 1.)

### § 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.

(82 Del. Laws, c. 221, § 1.)

### § 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.

(82 Del. Laws, c. 221, § 1.)

### § 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.

(82 Del. Laws, c. 221, § 1.)

### § 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.

(82 Del. Laws, c. 221, § 1.)

### § 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.

(82 Del. Laws, c. 221, § 1.)

## § 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 nonappealable, 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.

(82 Del. Laws, c. 221, § 1.)

## § 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.

(82 Del. Laws, c. 221, § 1.)

## § 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.

(82 Del. Laws, c. 221, § 1.)

## § 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.

(82 Del. Laws, c. 221, § 1.)

# Part IV
# Sussex County

## Chapter 61
## Government of Sussex County

### § 6101. Definitions.

As used in this part:

(1) "County" means Sussex County.

(2) The words "Sussex County government" or words of similar import, means the government of Sussex County as established in Chapter 70 of this title.

(9 Del. C. 1953, § 6101; 57 Del. Laws, c. 762, § 5A.)

### § 6102. Borrowing power; limitations.

(a) The government of Sussex County may, from time to time, borrow money in such amounts as it may find necessary promptly to pay the county warrants issued by it, and may issue certificates of indebtedness as evidence thereof; provided, however, that the amount of money borrowed shall not, at any 1 time, exceed the sum of $2,000,000.

(b) Any money so borrowed shall be applied to the particular fund for which it shall be borrowed, and shall be repaid from the taxes apportioned to such funds, as the taxes shall be collected. If the taxes apportioned to any fund, as to which money shall be borrowed, shall not in any year, be sufficient to repay such money, the deficiency shall be considered in making up the annual budget or estimate for the next year, and a tax rate shall be levied and apportioned sufficient to equalize such deficiency.

(c) The government of Sussex County may, from time to time, borrow money in such amounts as it may find necessary from federal and state grant funds, provided, that the same shall not be subject to the limitations set forth in subsection (a) of this section, that the same shall be repaid as set forth in subsection (b) of this section, and that the same shall be permitted by the granting authority.

(Code 1915, § 1048A; 28 Del. Laws, c. 76, § 5; 29 Del. Laws, c. 68, § 1; Code 1935, § 1201; 9 Del. C. 1953, § 6111; 50 Del. Laws, c. 114, § 1; 57 Del. Laws, c. 762, § 5B; 61 Del. Laws, c. 209, § 1; 61 Del. Laws, c. 394, § 1.)

### § 6103. Surplus funds; investment of.

The county government may invest any surplus moneys in the County Treasury, not otherwise appropriated, in United States Government Bonds. The Bonds shall be purchased and held in the name of "the Sussex County government."

(45 Del. Laws, c. 120, §§ 1, 2; 9 Del. C. 1953, § 6112; 57 Del. Laws, c. 762, § 5C.)

### § 6104. Salaries of clerks.

The county government may fix the compensation of clerks employed in the several county offices in all cases where clerical assistance is, by law, authorized to be employed in those offices and in respect of which no salary or compensation has been fixed by law.

(32 Del. Laws, c. 85; Code 1935, § 1208; 9 Del. C. 1953, § 6113; 57 Del. Laws, c. 762, § 5D.)

### § 6105. Fire companies.

The county government shall appropriate annually and on May 1 of each year shall pay the sum of $1,000 to each regularly organized and motorized fire company in Sussex County, as certified by the Secretary of the Sussex County Volunteer Firemen's Association, to be used for the maintenance of their apparatus and equipment.

(Code 1915, § 1097A; 33 Del. Laws, c. 77, § 1; 34 Del. Laws, c. 87, § 1; 40 Del. Laws, c. 130, § 1; Code 1935, § 1206; 44 Del. Laws, c. 87, § 1; 9 Del. C. 1953, § 6131; 57 Del. Laws, c. 762, § 5H.)

### § 6106. Ambulance service.

(a) So long as any of the organizations listed in this subsection shall have an ambulance and provide ambulance service for the benefit of the residents of Sussex County, the county government shall appropriate annually, and on May 1 of each year shall pay, the sum of $500 to such organization for the maintenance of its ambulance.

Bridgeville Fire Company, at Bridgeville.

Delmar Fire Department, Inc., at Delmar.

Frankford Volunteer Fire Company, at Frankford.

Gumboro Volunteer Fire Company.

Laurel Fire Department, at Laurel.

The Rehoboth Beach Volunteer Fire Company, Inc., at Rehoboth Beach.

Seaford Volunteer Fire Company, at Seaford.

Selbyville American Legion Post 9, Inc.

Sussex Memorial Post, No. 7422, V.F.W. at Millsboro.

Sussex Post No. 8, Incorporated, American Legion.

(b) So long as Sussex Post, No. 9, American Legion, at Georgetown, shall have an ambulance and provide ambulance service for the benefit of the residents of Sussex County, the county government shall appropriate annually and on May 1 in each year shall pay the sum of $250 to it for the maintenance of its ambulance.

(c) So long as Carlisle Fire Company, of Milford, shall have an ambulance and provide ambulance service for the benefit of the residents of Kent and Sussex Counties, the county government may appropriate and pay to it annually the sum of $250 for the maintenance of its ambulance.

(d) So long as Lewes Fire Department of Lewes, Delaware, shall have an ambulance and provide ambulance service for the benefit of the residents of Sussex County, the county government shall appropriate annually and on May 1 of each year shall pay the sum of $500 to it for the maintenance of its ambulance.

(37 Del. Laws, c. 101, § 1; Code 1935, §§ 1207, 1207A; 41 Del. Laws, c. 102, § 1; 41 Del. Laws, c. 103, § 1; 41 Del. Laws, c. 104, § 2; 41 Del. Laws, c. 107, § 1; 43 Del. Laws, c. 109, § 2; 47 Del. Laws, c. 71, § 1; 47 Del. Laws, c. 98, §§ 1, 2; 47 Del. Laws, c. 140, §§ 1, 2; 9 Del. C. 1953, § 6132; 50 Del. Laws, c. 255, § 1; 51 Del. Laws, c. 280; 53 Del. Laws, c. 28; 53 Del. Laws, c. 51.)

## § 6107. Cities and towns; aid for maintenance of public dumping areas.

The county government of Sussex County may negotiate with the proper authorities of the various cities and towns, and with private individuals or contractors within the County as to the establishment of public dumping areas open to the use of the general public, and further the said county government may expend such sums as it deems necessary as cost to the County in the purchase of land for said disposal or in the various contracts with the towns, cities and private individuals or contractors. The county government of Sussex County may tax the general public of Sussex County annually to defray the cost and expenses of the public dumping areas.

(9 Del. C. 1953, § 6133; 56 Del. Laws, c. 234, § 2; 62 Del. Laws, c. 216, § 1.)

## § 6108. Return Day observance.

The county government may appropriate and pay funds to Sussex County Return Day, Inc., a Delaware corporation, to defray the costs of the observance of Return Day at Georgetown.

(9 Del. C. 1953, § 6134; 55 Del. Laws, c. 27; 57 Del. Laws, c. 762, § 5J.)

## § 6109. Operation of Courthouse.

The county government shall have full and complete jurisdiction and control over the Courthouse and Courthouse Annex of Sussex County and over all personal property and equipment used in connection with the property committed to its jurisdiction; and, in this connection, the county government shall have and assume all of the jurisdiction, powers and duties heretofore exercised by or vested in the Board of Trustees pertaining to said buildings.

All contracts and engagements for the erection or repair of said buildings or for the purchase of equipment and supplies, where the probable amount shall be in excess of $5,000, shall be submitted to public bidding after due advertising and shall be awarded to the lowest responsible bidder, unless for reasons deemed expedient by the county government.

(9 Del. C. 1953, § 6151; 50 Del. Laws, c. 5, § 2; 57 Del. Laws, c. 762, § 5K; 65 Del. Laws, c. 56, § 1.)

## § 6110. Rules and regulations.

The county government shall make and promulgate rules and regulations for the proper care, maintenance and operation of the Courthouse and Courthouse Annex.

(9 Del. C. 1953, § 6153; 50 Del. Laws, c. 5, § 2.)

## § 6111. Real or immovable property; acquisition, lease, rental or disposal.

(a) The county government may acquire real or immovable property in such amounts as it may find necessary to fulfill the needs of the County.

(b) The county government may enter into a lease or rental agreement with any public or private entity for any real or immovable property of the County.

(c) The county government may dispose of any real or immovable property not needed by the County.

(59 Del. Laws, c. 260, § 1.)

# Part IV
# Sussex County
## Chapter 63
## Building Permits

### § 6301. Definitions.

As used in this chapter:

(1) “Building” means any structure, building, edifice or part thereof.

(2) “Construction” means alteration, removal, demolition, addition, repair or construction of any new or old building.

(3) “Person” means any architect, builder, contractor, repairman, agent, partner or corporation as well as an individual.

(9 Del. C. 1953, § 6301; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6A.)

### § 6302. Application for construction permits.

(a) No person shall construct or commence the construction of a building without first filing with the Department of Finance an application in writing for such construction and obtaining a permit therefor. Such application shall be made on forms prescribed by the Department of Finance and shall contain such information as the Department of Finance shall prescribe.

(b) Permits shall be issued only to contractors, the owner of any building necessary to the operation of farm lands, the owner of property located in any incorporated city or town in Sussex County, or any owner of property desiring to do his or her own work or labor about his or her own building.

(c) Except in instances in which the Department of Transportation has indicated authorization for temporary use of land set aside for future right-of-way needs, as provided in § 145 of Title 17, no permit shall be issued for the erection of any building or for the construction of any improvement or structure on any part of any land which lies or is located within the lines of any land designated and set aside for future highway right-of-way needs as appears on the Department’s Future Right-of-Way Map — Final except as hereafter provided in subsection (d) of this section.

(d) A building permit, otherwise issuable except for subsection (c) of this section, shall be issued notwithstanding the provisions of subsection (c) of this section unless the Department of Transportation, after being given written notice thereof by the Commission shall:

(1) Within 60 days of receipt of such notice, file with the County a declaration that:

a. The issuance of said permit will be detrimental to future highway planning and construction; and

b. The land described in said permit application is needed for future highway purposes; and

(2) Within 180 days of the giving of such notice, institute condemnation proceedings under Chapter 61 of Title 10, to acquire all of the land described in said building permit application as may be located within said future highway right-of-way.

(e) A building permit shall be required for the construction, erection, placement or alteration of any smokestack, tree, silo, flagpole, elevated tank, power line, radio or television tower, antenna, building, structure or other improvement to real property which:

(1) Is greater than 200 feet in height above ground level;

(2) Is greater in height than an imaginary surface extending outward and upward at a slope of 100:1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each public use airport in the State;

(3) Is located within 3,000 feet of the nearest point of the nearest runway of each public use airport in the State; or

(4) Otherwise acts as an obstruction to the operation of aircraft as those terms are defined in Chapter 6 of Title 2 or by Federal Aviation Regulations (FAR) Part 77 [14 C.F.R. Part 77].

(f) Such building permit for each such object or structure will not be issued until such time as the Department through the Office of Aeronautics has approved the application.

(g) No such permit shall be issued to a nonresident person engaging in business as a contractor, as defined in Chapter 25 of Title 30, in Sussex County until the Department of Finance is satisfied that § 2502(b) of Title 30 has been complied with to the extent applicable.

(9 Del. C. 1953, § 6302; 51 Del. Laws, c. 231; 57 Del. Laws, c. 754, §§ 7, 8; 57 Del. Laws, c. 762, § 6B; 60 Del. Laws, c. 293, § 2; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 575, § 21.)

### § 6303. Reports on permits issued by incorporated cities or towns.

Building inspectors or other officers authorized by law to issue permits for the construction of any buildings, in any incorporated city or town in Sussex County, shall report to the Department of Finance on blanks to be furnished by the Department of Finance, every permit issued by them respectively, for the construction of any building, specifying the estimated cost of the proposed construction.

(9 Del. C. 1953, § 6303; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6B.)

### § 6304. Inspections.

Each or any member of the Department of Finance shall make the necessary inspections to see that the provisions of this chapter are complied with and may order or compel the suspension of any work that is not in compliance with this chapter.

(9 Del. C. 1953, § 6304; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6B.)

## § 6305. Fees.

(a) The fees for issuing permits shall be determined by the County Council of Sussex County.

(b) The County may add a surcharge on any application for a building permit, in an amount not greater than 1.25% of the construction value applicable to the building permit application, to provide funding for the local share of any school capital construction program that has received a certificate of necessity from the Secretary of Education of the Department of Education pursuant to § 7510 of Title 29, except no surcharge may be added to an application for a building permit with a construction value of $30,000 or less, if the application is submitted after the issuance of the original certificate of occupancy.

(9 Del. C. 1953, § 6305; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6B; 64 Del. Laws, c. 65, § 1; 85 Del. Laws, c. 210, § 1.)

## § 6306. Records.

(a) The Department of Finance shall keep a careful and comprehensive record of applications, permits issued, inspections made, reports rendered and of notices or orders issued.

(b) The Department of Finance shall retain on file copies of all permits issued.

(c) All records may be open to public inspection at the discretion of the Department of Finance, but shall not be removed from the office of the Department.

(9 Del. C. 1953, § 6306; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6B.)

## § 6307. Permits not required.

No person shall be required to obtain a permit when the fair value of the construction of a building is less than $300.

(9 Del. C. 1953, § 6307; 51 Del. Laws, c. 231.)

## § 6308. Notice of violation.

(a) Whenever the Department of Finance is satisfied that a building is being constructed without a permit first being issued therefor, it may serve a written notice or order upon the person responsible therefor, directing discontinuance of the construction until a permit has been obtained from the Department.

(b) A person served with such notice or order shall, within 5 days, comply with the requirements thereof.

(9 Del. C. 1953, § 6308; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6B.)

## § 6309. Occupancy.

Any building that has been constructed without a permit may not be occupied, maintained or used by any person except with permission of the Department of Finance.

(9 Del. C. 1953, § 6309; 51 Del. Laws, c. 231; 57 Del. Laws, c. 762, § 6B.)

## § 6310. Violation and penalty.

Any owner of a building wherein any work in connection therewith has been done without a permit or any person employed in connection therewith and who has participated or assisted in the commission of such violation or both, shall be fined not less than $50 nor more than $200 for each offense.

(9 Del. C. 1953, § 6310; 51 Del. Laws, c. 231.)

## § 6311. Construction using public financial assistance.

No building or structure shall be constructed using public financial assistance in a manner that violates Chapter 42 of Title 31, and no occupancy or use permit shall be issued unless such building or structure complies with Chapter 42 of Title 31.

(78 Del. Laws, c. 368, § 3.)

# Part IV
# Sussex County

## Chapter 64
## Pensions for Sussex County Employees [Repealed].

**§§ 6401-6415. Short title; definitions; eligibility for retirement benefits; reduction of benefits; service in armed forces of the United States or in National Guard; retirement age; early retirement; mandatory retirement; retirement pension benefits; disability pension benefits; submission of pension data to determine tax return; pension benefits; time and manner of payment; list of pensioners; retirement of employee; preservation of pension records by Department of Finance; Arbitration Commission; notice to employee of qualification for pension; restrictions upon other employment by pensioner; exemption of pension benefits from taxation, attachment; assignability of benefits [Repealed].**

Repealed by 63 Del. Laws, c. 42, § 1, effective June 23, 1981.

# Part IV
# Sussex County
## Chapter 65
## Sanitary and Water Districts

### § 6501. Establishment of sanitary sewer or water district.

(a) Whenever contiguous territory containing 1 or more centers of population, whether incorporated or not, shall be so situated that the construction of interceptor sewers, outfall sewers and sewage treatment plants will be conducive to the preservation of the public health, the territory shall be established by the government of Sussex County as a sanitary sewer district.

(b) Whenever contiguous territory containing 1 or more centers of population, whether incorporated or not, shall be so situated that the construction of water mains, pipes and distribution facilities is economically feasible and conducive to the preservation of health, the territory shall be established by the county government as a water district. The county government may employ expert assistance in making a determination of economic feasibility and effect on health, but the determination of the county government as to economic feasibility and effect on health shall be conclusive and binding.

(9 Del. C. 1953, § 6501; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

### § 6502. Establishment or revision of sanitary or water districts without election.

(a) Where the county government has already constructed sewers or water mains to which 50 or more houses have been connected, the county government may establish, upon request of the County Engineer, a new district, or revise the boundaries of an established district by posting at 4 public places in the district, notices describing the new or revised boundaries, and, in the case of the establishment of a new district, the same cost and assessment data required for districts established by vote of electors.

(b) Within 90 days after the posting of the notices of the establishment of the district in accordance with the provisions of subsection (a) of this section, the county government shall pass a formal resolution establishing the district, which shall:

(1) Contain a description of the boundaries of the district;

(2) Direct the County Engineer and the attorney of the county government to procure the necessary land and rights-of-way by purchase, agreement, or condemnation in accordance with existing statutes; and

(3) Authorize the County Engineer to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any or all structures required to provide for the safe disposal of the sewage or furnishing of water in the sanitary or water district.

(9 Del. C. 1953, § 6502; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 80 Del. Laws, c. 131, § 1.)

### § 6503. Establishment of sanitary or water district upon petition of voters.

Fifty or more legal voters of a proposed sanitary sewer or water district, may petition the county government to submit the question of organizing a sanitary sewer or water district to a vote of electors in that district. The petition shall contain a description of the proposed district and shall be accompanied by a map drawn to scale showing the boundaries of the proposed district together with the limits of any incorporated areas which may be included in the district. The execution of the petition by an elector shall be acknowledged by that elector or it may be proved by the oath of a witness who shall swear that the witness knows the elector and that the petition was signed by the elector in the presence of the witness.

(9 Del. C. 1953, § 6503; 55 Del. Laws, c. 262; 57 Del. Laws, c. 449, § 1; 57 Del. Laws, c. 762, § 8A; 70 Del. Laws, c. 186, § 1.)

### § 6504. Public hearing; notice.

Upon receipt of a petition submitted pursuant to § 6503 of this title, or upon its own motion without petition, the county government shall set a date for a public hearing on the question of organizing a sanitary sewer or water district. The hearing shall be held at the time fixed by the county government and shall be previously advertised by posting a notice, in 4 of the most public places within the proposed district, at least 10 days prior thereto and by publishing a notice in a newspaper published within the County and having a general circulation therein once in each of 2 weeks immediately preceding the week in which the hearing is to be held. All interested persons, officials, residents, voters, taxpayers, property owners or other persons or corporations in any way affected by the granting of the petition shall be heard on any question dealing with the location of the boundaries of the district. Such notice shall contain a description of the boundaries of the proposed sanitary or water district and if the public hearing be ordered as a result of the filing of a petition, such boundaries shall be those described in the petition.

(9 Del. C. 1953, § 6504; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

### § 6505. Action of county government following hearing.

(a) After the public hearing referred to in § 6504 of this title shall have been closed, the county government shall, by resolution, determine whether or not it is in the public interest to establish the district and, if it deems it to be in the public interest to establish the

district, the county government shall, by such resolution, determine the boundaries of the district. Such boundaries may be those set forth in the petition or may be boundaries which will include in the district only the property and property owners that will be benefited by the establishment of the district and the construction of sewage disposal or water facilities therein.

(b) After establishing the boundaries of the district, the county government shall also cause to be prepared by the County Engineer or consulting engineers, an estimate of the cost of proposed immediate construction and also an approximate estimate of the assessment necessary to take care of interest amortization and costs of construction and financing. The construction cost estimates and assessment estimates shall be advertised in the same manner as provided in § 6504 of this title for advertising the public hearing.

(9 Del. C. 1953, § 6505; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 81 Del. Laws, c. 139, § 1.)

## § 6506. Election on question of establishment of district.

(a) Whenever the determination on the question of establishing the district, as required by § 6505 of this title, is in the affirmative, and after the other requirements of § 6505 of this title have been complied with, the county government then shall cause an election to be held within 6 months following the date of the hearing, at which the question shall be submitted to the voters of the sanitary sewer district as fixed by the county government as to whether the district shall be established or not. Notice of the election shall be advertised in the same manner as provided in § 6504 of this title for advertising the public hearing. The cost of the election shall be borne by the county government, which shall be reimbursed for such cost by the district, if established by the election.

(b) The proposition shall be submitted to the voters substantially in the following form:

FOR THE SANITARY SEWER DISTRICT

AGAINST THE SANITARY SEWER DISTRICT

(c) The majority of votes cast shall decide the matter.

(d) The election shall be managed and the votes canvassed in such manner as may be prescribed by the county government. All persons who are "voters" as defined in § 6519 of this title shall be eligible to vote in the election.

(9 Del. C. 1953, § 6506; 55 Del. Laws, c. 262; 57 Del. Laws, c. 449, §§ 2, 3; 57 Del. Laws, c. 762, § 8A.)

## § 6507. Action of county government following election favoring establishment of district.

(a) If the majority of the voters are in favor of establishing the sanitary sewer district, the county government shall within 30 days following the election, issue a determination to that effect which shall contain a description of the district. The county government shall file a certified copy of the determination with the Clerk of the county government.

(b) Within 12 months after the election, the county government shall authorize the County Engineer and the county government attorney to procure the necessary land and rights-of-way by purchase, agreement, or by condemnation in accordance with existing laws, and shall authorize the County Engineer to prepare maps, plans, specifications and estimates for any or all structures required to provide for the installation of sewers or water systems, and to let contracts for, supervise the construction and maintenance of, or the enlarging or remodeling of such systems, and to carry on such other activities as may be required by this chapter or considered necessary to perform the duties prescribed in this chapter.

(9 Del. C. 1953, § 6507; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, §§ 8A, 8B; 61 Del. Laws, c. 446, § 1.)

## § 6508. Construction of system adequate for future connections.

The county government may construct and maintain main sewers or water mains and sewage or water treatment works in order to provide a satisfactory outlet for any subdivision which may at any future time connect submain or lateral sewers to it.

(9 Del. C. 1953, § 6508; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

## § 6509. Construction or maintenance of sewers or water systems for municipalities.

The county government may construct or maintain submains or laterals as agent for municipalities when officially requested so to act and when the cost of such work is to be borne by local assessments against the property benefited or by assessment by the county government in the same manner as for unincorporated areas.

(9 Del. C. 1953, § 6509; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

## § 6510. Adjustment of assessment for cost of existing sewers included in a district.

In the case where a sanitary sewer or water district shall include areas wherein sanitary sewers or water systems have been constructed under the authority of the county government, or by municipalities, corporations or individuals, the necessary adjustments shall be made with each property owner for those costs already incurred by the property owner when those sewers or water systems were constructed. Such excess costs shall be credited to future assessments levied by the district.

(9 Del. C. 1953, § 6510; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

## § 6511. Power to issue bonds; terms; borrowing in anticipation of issuance of bonds.

(a) The county government may issue bonds of Sussex County to finance the cost of constructing sewage disposal or water facilities in any sanitary sewer or water district, respectively. Bonds issued to finance such facilities may be issued to fund interest on such bonds

for a period not to exceed 6 months during the period of construction of the facilities being financed. The moneys raised by the issuance of such bonds shall be held in a separate account and shall be expended only for the construction of sewage disposal or water facilities in the sanitary sewer or water district for which the bonds are issued.

(b) The bonds shall bear interest at a rate or rates per annum determined by the county government. Interest on the bonds shall be exempt from taxation by the State or any political subdivision thereof for any purpose. Each issue of bonds shall be payable within 40 years after the date of their issue. The interest coupons and face amount of the bonds shall be payable at a state or national bank designated by the county government. The reasonable expenses of issuing such bonds shall be deemed a part of the cost of constructing the sewer or water facilities. The full faith and credit of Sussex County may be pledged to the payment of such bonds and the interest thereon.

(c) In anticipation of issuance of bonds, the county government may, by resolution, borrow money in such amounts as it may find necessary and authorize the issuance of negotiable notes therefor.

(9 Del. C. 1953, § 6511; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 59 Del. Laws, c. 583, § 1; 60 Del. Laws, c. 601, § 1; 63 Del. Laws, c. 142, § 24; 64 Del. Laws, c. 68, § 1; 66 Del. Laws, c. 320, § 1.)

## § 6512. Sale of bonds.

(a) Any bonds issued pursuant to this chapter shall be sold at either public or private sale, upon such terms, conditions and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(b) If the county government determines to sell such bonds at public sale, then the county government shall advertise the bonds for sale at least once, 10 or more days before the date of sale, in at least 1 newspaper of general circulation published in the County, and in a newspaper of general circulation published in the City of New York, inviting bids for the bonds. The advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening bids, the conditions under which the bonds are to be sold and such other matters as the county government may determine. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(c) The county government may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(d) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the purchaser or purchasers which, in the judgment of the county government, offers the most advantageous terms.

(e) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds, and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the county government. The bonds shall be executed, sealed and delivered as prescribed by the county government.

(9 Del. C. 1953, § 6512; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 64 Del. Laws, c. 68, § 2; 66 Del. Laws, c. 320, § 2.)

## § 6513. Procedure for annual assessment.

(a) The county government each year, at a time to be fixed by it, shall, after a public hearing, establish an annual assessment roll for the sanitary sewer or water district which shall be known as the “Sanitary Sewer District Assessment,” or “Water District Assessment.”

(b) The total amount assessed for each year shall be sufficient to provide funds required to reimburse the County for sums to be expended for retiring the bonds which have been issued, for the payment of the interest due on the bonds, for maintaining or improving the sewerage or water system and for paying the necessary general expenses of the sanitary sewer or water district.

(c) Notice of the public hearing shall state that the assessment roll has been completed and filed, and that at the time and place fixed for the public hearing the county government will meet and hear and consider any objections which may be made to the assessment roll. Notice of the public hearing shall be published in a newspaper published within Sussex County, and having a general circulation in the County, once in each of the 2 weeks immediately preceding the week in which the public hearing is to be held.

(d) After holding the public hearing, the county government may change or amend the assessment roll as it deems necessary or just, and may confirm and adopt the assessment roll as originally proposed or as amended or changed.

(9 Del. C. 1953, § 6513; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

## § 6514. Collection of assessments.

The annual assessments, shall be collected by the county government as are other county taxes. The properties against which such assessments are levied shall be liable for the payment of the assessments in the same manner as they are liable for other county taxes. Such assessment charges shall, as near the county government deems practicable and equitable, be uniform throughout the area served by the sanitary sewer district, and may be based or computed either on the consumption of water or in connection with the real property, making

due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property, or on a front footage basis, or on other factors determining the type, class and amount of use or service of the sanitary sewer system, or on any combination of such factors. No assessment shall be made against any property which is not subject to taxation and assessment for county and municipal purposes.

(9 Del. C. 1953, § 6514; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 81 Del. Laws, c. 139, § 2.)

## § 6515. Rules and regulations governing use of sewage disposal and water facilities.

The county government may promulgate from time to time, and enforce such rules and regulations, as may be necessary, governing the use of the whole or any parts of such sewerage or water systems or sewage treatment plants constructed under their control, either within or without the district.

(9 Del. C. 1953, § 6515; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.)

## § 6516. Grants or loans from federal, state or interstate agencies.

The county government may accept grants or loans of money, labor, materials, equipment or technical assistance from agencies of the federal or state government or from interstate agencies to accomplish the purposes of this chapter. The county government may issue bonds to evidence loans made by an agency of the federal government, at private sale, providing those bonds bear interest at no more than 5% per annum and are issued for a term not exceeding 40 years from the date of the bonds. The county government may pledge its taxing power to the payment of the bonds without limitation as to rate or amount and the bonds may be payable at a place approved by the agency making the loan. Bonds issued pursuant to this section shall not be subject to § 6102 of this title, as amended.

(9 Del. C. 1953, § 6516; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 63 Del. Laws, c. 128, § 1; 63 Del. Laws, c. 451, § 1.)

## § 6517. Order to connect to sanitary sewer; enforcement.

(a) The county government may, where it deems it necessary to the preservation of public health, order the owner of any lot or parcel of land within a sanitary or water district which abuts upon a street or other public way containing a sanitary sewer or water main, which is part of or which is served, or may be served, by the county sewerage or water system, and upon which lot or parcel of land a building shall have been constructed for residential, commercial or industrial use, to connect such building with such sanitary sewer or water main.

(b) If any owner shall fail to comply within 60 days with the order to connect with a sanitary sewer or water main, the county government shall forthwith institute action in a Justice of the Peace Court in Sussex County or in the Court of Chancery to compel compliance with the order.

(9 Del. C. 1953, § 6517; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 77 Del. Laws, c. 303, § 1.)

## § 6518. Exception to limitation on borrowing power.

Bonds issued pursuant to this chapter shall not be subject to any debt limit imposed by the laws of the State.

(9 Del. C. 1953, § 6518; 55 Del. Laws, c. 262; 64 Del. Laws, c. 68, § 3.)

## § 6519. Definitions; voters.

(a) Notwithstanding any other provisions of this title, for the purposes of this chapter the terms “voter,” “voters,” “legal voters,” and “elector” shall be deemed to include all the following persons:

(1) Persons whose principal place of abode has been within the proposed sanitary and water district for at least 6 months immediately preceding the date of the election or the date of the petition, whichever is applicable;

(2) Persons who own real estate in the proposed sanitary and water district on the date of the election or the date of the petition, whichever is applicable, regardless of where they reside, unless such real estate is subject to a lease described in paragraph (a)(4) of this section;

(3) Corporations which own real estate in the proposed sanitary and water district on the date of the election or the date of the petition, whichever is applicable, unless such real estate is subject to a lease described in paragraph (a)(4) of this section; and

(4) Each leaseholder holding land under a valid lease in which the original term is specified at not less than 10 years and whose lease is recorded in the office of Recorder of Deeds in and for Sussex County and who has erected upon his or her leasehold an improvement having an assessed valuation of at least $1,000 on the date of the election or the date of the petition, whichever is applicable, but in no case shall there be more than 1 vote per lease.

(b) No person or corporation shall be entitled to more than 1 vote in any election.

(c) Jointly or severally owned real estate shall be entitled to only 1 vote.

(d) The president or vice-president of a corporation shall exercise the vote on behalf of the corporation, provided that such president or vice-president exhibits a notarized resolution of the corporation authorizing him or her to cast such vote.

(9 Del. C. 1953, § 6519; 57 Del. Laws, c. 449, § 4; 70 Del. Laws, c. 186, § 1.)

## § 6520. County Engineer; appointment and duties; assistants.

(a) The county government may appoint a County Engineer for such term, and at such compensation as it deems proper. The County Engineer shall be responsible for and have general supervision over all public engineering work in the County including, but not limiting the generality of the foregoing, the construction of water production and distribution facilities and the construction of sanitary sewers, trunk lines, sewerage disposal plants, sanitary sewer systems in general and maintenance thereof, drainage, construction, lighting service, and other projects of a public nature.

(b) The county government may employ, for such periods and for such compensation as it deems proper, such draftsmen, rodmen, and assistants as, in its opinion, are necessary to carry on the public work specified in subsection (a) of this section.

(9 Del. C. 1953, § 6601; 55 Del. Laws, c. 245; 57 Del. Laws, c. 762, § 9A.)

## § 6521. Location of sewage treatment plants and other sewage disposal facilities.

(a) Notwithstanding any other provisions of this chapter, sewage treatment plants and other sewage or water facilities may be located outside, in part or in whole, the sewer or water district which they intended to serve.

(b) It shall be permissible to transfer sewage or water from 1 sewer or water district to another sewer or water district for the purposes of treatment and disposal of the sewage, or for providing water.

(67 Del. Laws, c. 204, § 2; 76 Del. Laws, c. 369, § 1.)

# Part IV
# Sussex County

## Chapter 67
## Sewers and Water

### § 6701. Definitions.

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

(1) "County" means Sussex County.

(2) "Revenue bonds" means bonds to the payment of which all or any part of the revenues derived from the operation of any water or sewerage system are pledged in accordance with this chapter.

(3) "Service charges" means rents, rates, fees or other charges charged or collected under § 6709 of this title.

(4) "Sewerage system" means the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by the County for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes, garbage and storm water, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal system, plants and works, connections and outfalls, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, appurtenances necessary or useful and convenient for such purposes.

(5) "Water system" means all real and personal property necessary or useful in the collection, acquisition, treatment, purification, and distribution of water, together with any principal or ancillary rights appurtenant thereto.

(9 Del. C. 1953, § 6701; 55 Del. Laws, c. 263.)

### § 6702. Powers of County.

In addition to the other powers which it has, the County may, under this chapter:

(1) Plan, construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better or extend any sewerage or water system, and acquire by gift, purchase, or exercise of the right of eminent domain, lands or rights in land in connection therewith;

(2) Operate and maintain any water or sewerage system and furnish the services and facilities rendered or afforded thereby;

(3) Enter into and perform contracts, whether long term or short term, with any industrial establishment, municipality, county or agency of this State or any other state or federal government, for the provision and operation by the County of the sewerage system to abate or reduce the pollution of waters caused by discharges of industrial wastes by such industrial establishment, municipality, county or agency of this State or any other state or federal government, and the payment periodically by the industrial establishment, municipality, county or agency of this State or any other state or federal government to the County, of amounts at least sufficient, in the judgment of the county government, to compensate the County for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining, the sewerage system or part thereof serving such industrial establishment, municipality, county or agency of this State or any other state or federal government;

(4) Issue its negotiable or nonnegotiable bonds to finance, either in whole or in part, the cost of the planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system, and, if the county government so determines, pledging the full faith and credit of the County to the punctual payment of the bonds and the interest thereon;

(5) Pledge to the punctual payment of the bonds and the interest thereon an amount of the revenues derived from the operation of such sewerage or water system (including the revenues of the existing facilities, if any, comprising a sewerage or water system which is being improved, bettered, extended or acquired, and the revenues to be derived from any improvements, betterments, extensions thereafter constructed or acquired), or of any part of any such sewerage or water system, sufficient to pay, on either equal or priority basis, the bonds and interest as the same become due and create and maintain reasonable reserves therefor, which amount may consist of all or any part or portion of such revenues;

(6) Accept from any authorized agency of the state or federal government, or from persons, firms, or corporations, grants, or contributions for the planning, construction, acquisition, lease, reconstruction, improvement, betterment or extension or operation and maintenance of any sewerage or water system and enter into agreements with such agency respecting such loans and grants;

(7) Enter into a contract or contracts with any city or town situated within the County providing for the disposal of sewage collected by any sewerage system either for a specified or an unlimited time and for the charge to be made for such service by or to any such city or town;

(8) Enter into and perform contracts with any person for the sale of effluent products;

(9) Enter into and perform a contract or contracts with any person, municipality, county or agency of this State or any other state or federal government for the sale, purchase, treatment, purification, transmission, or distribution of water; and

(10) Enter into and perform contracts, whether long term or short term, with any person, organization, association or other entity, public or private, profit or nonprofit, for the study, design, construction, operation or maintenance of a sanitary sewerage system, which may be in or outside of a sanitary sewer district.

(9 Del. C. 1953, § 6702; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 61 Del. Laws, c. 149, § 1; 63 Del. Laws, c. 41, §§ 1, 2; 65 Del. Laws, c. 371, § 1; 66 Del. Laws, c. 320, § 3.)

## § 6703. Sewerage and water system within city or town.

No sewerage or water system, or any part thereof, shall be constructed or maintained within the boundaries of any city or town situated in the County without the consent of such city or town, except that transmission lines or mains may be constructed or maintained without consent. The consent shall be given only by an ordinance adopted by the council or other governing body of the city or town in question, but once given shall be irrevocable.

(9 Del. C. 1953, § 6703; 55 Del. Laws, c. 263.)

## § 6704. Authorization of bonds; terms; sale and interest rate; borrowing in anticipation of issuance of bonds.

(a) The planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system may be authorized under this chapter, and bonds may be authorized to be issued under this chapter to provide funds for such purpose by ordinance or resolution of the county government.

(b) The county government, in determining the cost of acquiring or constructing any sewerage or water system, may include all costs and estimated costs of the issuance of the bonds, all planning, engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this chapter.

(c) The bonds shall bear interest at such rates, may be in 1 or more series, may bear such dates, may mature at such times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions and may be in such form, either coupon or registered as the ordinance or resolution provides. The reasonable expense of issuing such bonds shall be deemed part of the cost of constructing the sewer or water facilities.

(d) Bonds issued pursuant to this chapter may be sold at either public or private sale, upon such terms, conditions and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(e) If the county government determines to sell such bonds at public sale, then the county government shall advertise the bonds for sale at least once, 10 or more days before the date of sale, in at least 1 newspaper of general circulation published in the County, and in a newspaper of general circulation published in the City of New York, inviting bids for the bonds. The advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening bids, the conditions under which the bonds are to be sold and such other matters as the county government may determine. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(f) The county government may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(g) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the purchaser or purchasers, which, in the judgment of the county government, offers the most advantageous terms.

(h) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds, and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the county government. The bonds shall be executed, sealed and delivered as prescribed by the county government.

(i) Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the county government determines may be issued to the purchasers of bonds sold pursuant to this chapter.

(j) In anticipation of issuance of bonds, the county government may, by resolution, borrow money in such amounts as it may find necessary and authorize the issuance of negotiable notes therefor.

(9 Del. C. 1953, § 6704; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 59 Del. Laws, c. 583, § 2; 60 Del. Laws, c. 600, § 1; 64 Del. Laws, c. 68, § 4; 66 Del. Laws, c. 320, §§ 4-6.)

## § 6705. Authorized signatures on bonds; validity of issuance.

(a) Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the County.

(b) The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the planning, acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the sewerage or water system for which the bonds are issued. The ordinance or resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(9 Del. C. 1953, § 6705; 55 Del. Laws, c. 263; 66 Del. Laws, c. 320, § 7.)

## § 6706. Payment of bonds, faith and credit of County; tax levy.

The full faith and credit of the County may be pledged to the payment of any bonds issued by the County under this chapter. The county government may annually appropriate to the payment of bonds issued under this chapter and the interest thereon the amounts required to pay such bonds and interest as the same becomes due and payable. Notwithstanding the provisions of any other law, the county government may levy an ad valorem tax, without limitations as to rate or amount, upon all property taxable by the County to raise the moneys necessary to meet any such appropriation. Section 6111 of this title is hereby repealed to the extent said section is inconsistent with this chapter.

(9 Del. C. 1953, § 6706; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 66 Del. Laws, c. 320, § 8.)

## § 6707. Authorization of covenants in bonds.

(a) In the event that the County issues revenue bonds, the ordinance or resolution authorizing the issuance of such bonds may contain covenants as to:

(1) The purpose to which the proceeds of sale of the bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the revenue of the sewerage or water systems, the revenues of which are pledged to the payment of such bonds, including the creation and maintenance of reserves;

(3) The issuance of other or additional bonds payable from the revenues of such sewerage or water systems;

(4) The operation and maintenance of such sewerage or water systems;

(5) The insurance to be carried thereon and the use and disposition of insurance moneys;

(6) Books of account and the inspection and audit thereof; and

(7) The terms and conditions upon which the holders of the bonds, or any proportion of them, or any trustee therefor, shall be entitled to the appointment of a receiver by the appropriate court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the sewerage or water systems, operate and maintain them, prescribe service charges therefor, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the County itself might do.

(b) The provisions of this chapter and any such ordinances or resolutions shall be a contract with the holder of the bonds, and the duties of the County and of the county government and officers under this chapter, and any such ordinances or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

(9 Del. C. 1953, § 6707; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 66 Del. Laws, c. 320, §§ 9, 10.)

## § 6708. Service charges; amount and application; repayment for borrowed funds.

(a) If the County issues bonds under this chapter, the county government shall prescribe and collect reasonable service charges for the services and facilities rendered or afforded by the sewerage or water systems, the revenues of which are pledged to the payment of such bonds, and shall revise such service charges from time to time whenever necessary.

(b) The service charges prescribed shall be such as will procure revenue at least sufficient to:

(1) Pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; and

(2) Provide for all expenses of operation and maintenance of such sewerage or water systems, including reserves therefor.

(c) The service charges when collected shall be applied to the payment of the bonds and interest and to the expenses of such operation and maintenance in accordance with the ordinance or resolution authorizing the bonds.

(d) The County may borrow funds up to $1,000,000 to pay as due the necessary expenses of the operation and maintenance of any sewer or water system to be repaid from sums received for service charges of each respective sewer or water district. Section 6102 of this title is not applicable to this chapter.

(9 Del. C. 1953, § 6708; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 63 Del. Laws, c. 39, § 1; 66 Del. Laws, c. 320, § 11.)

## § 6709. Power to make charges; liability of users; computation of rates.

(a) The county government may charge and collect rents, rates, fees or other charges (in this chapter sometimes referred to as “service charges”) for direct or indirect connection with, or the use or services of, any sewerage or water system. Such service charges may be charged to and collected from any person contracting for such connection or use or service, or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with a sewerage or water system, or from or on which originates or has originated sewerage which directly or indirectly has entered or may enter into a sewerage system, or into which water from a water system may enter directly or indirectly, and the owner or occupant, or both of them, of any such real property shall be liable

for and shall pay such service charges to the County at the time when, and place where, the county government by ordinance, resolution, rule or regulation determines that such charges are due and payable.

(b) Such service charges shall, as near as the county government deems practicable and equitable, be uniform throughout the area served by the sewerage or water system, and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property or on a front footage basis, or on other factors determining the type, class and amount of use or service of the sewerage or water system, or on any combination of any such factors.

(9 Del. C. 1953, § 6709; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 66 Del. Laws, c. 320, § 12.)

## § 6710. Penalties for failure to pay charges.

(a) In the event that a service charge with regard to any parcel of real property is not paid as and when due, interest shall accrue and be due to the County on the unpaid balance at the rate of 1 percent per month until the service charge, and the interest thereon, shall be fully paid to the County.

(b) In the event that any service charge with respect to any parcel of real property is not paid as and when due, the county government may, in its discretion, enter upon such parcel and cause the connection thereof leading directly or indirectly to the sewerage or water system to be cut and shut off until the service charge and any subsequent service charges with regard to such parcel and all interest accrued thereon are fully paid.

(9 Del. C. 1953, § 6710; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6711. Lien of service charges on real estate.

(a) In the event that any service charge is not paid when due, the unpaid balance and any interest accrued shall be a lien on the parcel of real property with regard to which the service charge was made. The lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person, except the lien of taxes.

(b) If any service charge or any part of a service charge remains unpaid at the end of 2 years after the due date, the county government shall institute proper proceedings for the enforcement of the lien, levy the service charge as an assessment with interest thereon accrued, and all costs thereon, upon the grounds and buildings with regard to which a service charge was made. The properties against which such service charges remain unpaid shall be liable for the payment of said service charge in the same manner as they are liable for other county taxes and are subject to the collection procedures set forth in Chapter 87 of this title.

(c) The Sheriff shall, out of the purchase money of the premises so sold, pay all costs arising from the process and sale to the parties entitled thereto respectively, and shall pay the amount of the service charge with accrued interest thereon to the county government. The residue of the purchase money shall be immediately deposited in a state or national bank designated by Sussex County, to the credit of the owner or owners of the property so sold.

(9 Del. C. 1953, § 6711; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 63 Del. Laws, c. 142, § 25; 64 Del. Laws, c. 67, § 1.)

## § 6712. Sewer and water lien docket.

The Prothonotary shall, under the supervision and direction of the county government, prepare a docket to be known as “The Sussex County Sewer and Water Lien Docket” in which shall be recorded the liens for service charges. The Docket shall be prepared at the expense of the county government in substantially the same form as the judgment docket for Sussex County, and contain in the back thereof an index according to the name of the owner against which such lien has been assessed. No sewer lien shall be valid unless duly recorded as provided in this section. All sewer liens duly recorded in the Docket shall continue in full force and effect until the liens have been satisfied by payment, and when such liens are satisfied by payment the Prothonotary, acting under the supervision and direction of the county government, shall satisfy the record by entering thereon the date of final payment and the words “satisfied in full.” The Prothonotary, for the use of the county government, shall receive a fee of 50 cents for each satisfaction so entered.

(9 Del. C. 1953, § 6712; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6713. Water consumption statement and other information for county government or its designated agent.

(a) Each municipality or public corporation, or other person, owning or operating any system of water distribution serving 3 or more parcels of real property in the County shall, from time to time after request therefor by the county government or its designated agent, deliver to the county government or its designated agent a statement showing the amount of water supplied to every such parcel of real property as shown by the records of the municipality or public corporation or other person. The statements shall be delivered to the county government or its designated agent within 10 days after request is made for them, and the county government or its designated agent shall pay the reasonable cost of preparation and delivery of such statements.

(b) The occupant of every parcel of property, the sewage from which is disposed of or treated by any sewerage system of the County, of the water for which is supplied by any water system of the County, shall, upon request therefor by the county government or its designated

agent, furnish to the county government or its designated agent information as to the amount of water consumed by such occupant or in connection with such parcel and the number and kind of water outlets, and plumbing or sewerage fixtures or facilities on or in connection with such parcel and the number of persons working or residing therein.

(9 Del. C. 1953, § 6713; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6714. Discontinuance of water supply for failure to pay service charge.

Each city or town or other public corporation owning or operating any water distribution system serving 3 or more parcels of real property in the County, and every other person owning or operating any such system may enter into and perform a contract with the County that it will, upon request by the county government specifying a parcel of real property in the County charged with any unpaid service charge under § 6709 of this title, cause the supply of water from its system to such parcel of real property to be stopped or restricted, as the county government may request, until the service charge and any subsequent service charge charged to such parcel and the interest accrued thereon is fully paid or until the county government directs otherwise. No such city or town or other public corporation or other person shall be liable for any loss, damage or other claim based on or arising out of the stopping or restricting of such supply, and the county government shall pay the reasonable cost of so stopping or restricting such supply and of restoring the same and may agree to indemnify such city or town or public corporation or other person from loss or damage by reason of such stopping or restriction, including loss of profits.

(9 Del. C. 1953, § 6714; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6715. Contract with municipality for disposal or treatment of sewage or the filtering, purifying or supplying of water.

(a) The county government may contract with any municipality within the territorial limits of the County for the disposal or treatment by means of any sewerage system of the County or municipality the sewage originating in such city or town or elsewhere. Any such contract may be authorized by resolution duly adopted by the county government and may be made with or without consideration and may contain provisions obligating the County or municipality to dispose of and treat all or any part of the sewage originating in such city or town or elsewhere and obligating such city or town to permit the County to dispose of or treat such sewage, either for a specific period of time or for an unlimited time. Any such contract may contain other and different provisions relative to the kind and character of sewage to be disposed of and treated and the compensation, if any, to be paid for such services.

(b) The county government may contract with any municipality within the territorial limits of the County to buy, sell, process, filter, treat or purify water. Such filtration, treatment, processing or purification may be done in any plant or facility of the County or the municipality for such time, on such terms, and in such volume as the county government may, by resolution, determine.

(9 Del. C. 1953, § 6715; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6716. Connection of property with sewer or water mains.

Permits for connecting any property by a drain or pipe with any county sewer or water main shall be obtained from the county government and shall be issued only to plumbers licensed to do business in this State. No permit will be granted for connecting any property by a drain or pipe with any sewer or water main unless application is made therefor to the county government in writing upon blanks furnished by the county government. The application shall state the full name of the owner, the size and kind of drain or pipe to be used, and a full description of the premises, its location, the number and size of each building located thereon to be drained, the area of each floor thereof, including the floor of the cellar or basement, all of the purposes for which the drain or pipe is to be used, the time when the connection is to be made and other particulars for a full understanding of the subject and that the owner will be subject to all the rules and regulations prescribed by the county government. The application shall be signed by the owner of the property to be drained or supplied with water and by a plumber licensed to do business in this State. The owner shall also execute a release to the county government releasing the county government, its officers and agents and the County from all liability or damage which may in any manner result to the premises by reason of such connection. No permit shall be deemed to authorize anything not therein specifically stated.

(9 Del. C. 1953, § 6716; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6717. Licensed plumber to connect property with sewers or mains.

All necessary plumbing work to be done in connecting any property with a county sewer or water main shall be done by a plumber licensed to do business in this State, in a good and workmanlike manner, and with good and proper materials, and shall be subject to the approval of the county government or its designated agent.

(9 Del. C. 1953, § 6717; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6718. Misrepresentations in application and unauthorized connections with sewer or water main; penalty.

Whoever wilfully makes any misrepresentation in any application or makes or maintains any connection with any sewer or water main contrary to the authority granted by permits issued therefor by the county government, or without a permit therefor in accordance with the provisions of this chapter, shall be fined not less than $5.00 nor more than $500.

(9 Del. C. 1953, § 6718; 55 Del. Laws, c. 263.)

## § 6719. Surveys and inspections by county government; penalty for refusal to permit.

(a) The county government or its designated representatives may go upon the land for the purpose of making surveys for sewers, sewer systems, sewage disposal plants, water mains, water systems, water treatment plants, pumping plants, or for right-of-way or other property right required for the sewerage or water systems.

(b) The county government or its designated representatives may inspect, at reasonable hours, any premises, dwellings or other buildings in the vicinity of a county sewer to determine if it is connected to the county sewer or water main, or to determine if the sewer or water main connection has been made or is being maintained in accordance with the regulations of the county government.

(c) Whoever refuses to permit inspections and surveys at reasonable hours shall be fined not less than $10 for every such refusal.

(9 Del. C. 1953, § 6719; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.)

## § 6720. Construction of chapter with other laws.

The powers conferred by this chapter shall be in addition to, and not in substitution for, the powers conferred by any other general, special or local law. The powers conferred by this chapter may be exercised notwithstanding that any other general, special or local law may confer such powers, and without regard to the requirements, restrictions, limitations or other provisions contained in such other general, special or local law.

(9 Del. C. 1953, § 6720; 55 Del. Laws, c. 263.)

## § 6721. Annexation.

Any annexation by any municipality of any previously unincorporated area shall not confer upon the annexing municipality any right, title or interest in any part of any water or sewer system constructed, acquired, extended or improved pursuant to this chapter, except as a resolution of the county government may so provide. No such resolution shall be adopted by the county government unless the annexing municipality shall have deposited a fund sufficient to pay when due any outstanding bonds issued hereunder for the purchase, construction, acquisition, extension or improvement of all systems wholly or partly within the annexed area, with interest to the date of call or redemption and any redemption or call premium applicable thereto.

(9 Del. C. 1953, § 6721; 55 Del. Laws, c. 263.)

# Part IV
# Sussex County
## Chapter 68
## Planning and Zoning

### § 6801. Definitions.

As used in this chapter, unless the same shall be inconsistent with the context:

(1) "Commission" means "County Planning and Zoning Commission of Sussex County" created by this chapter.

(2) "County Engineer" means "County Engineer of Sussex County."

(3) "County government" means "the county governing body of Sussex County."

(4) "District" means "corporate boundaries of Sussex County including municipalities which choose to be included in the planning and zoning district."

(5) "Highway Department" means "Department of Transportation of the State of Delaware."

(6) "Plan" means "comprehensive development plan of the district."

(7) "Recorder's office" means "Recorder of Deeds in and for Sussex County."

(8) "Road" includes any "road," "street," "highway," "freeway," "parkway," or other public thoroughfare.

(9 Del. C. 1953, § 6801; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11A; 60 Del. Laws, c. 503, § 22.)

### § 6802. Statement of purposes.

For the purpose of promoting the health, safety, prosperity and general welfare, as well as for the purpose of securing coordinated plans for land use, transportation, public facilities and utilities and public works expenditures in that portion of Sussex County which is not included within the corporate limits of any city or town, unless any territory within such corporate limits is included upon request made by the governing body or authority of any such city or town, and as well as for the purpose of preventing the unnecessary duplication of facilities or utilities, the body to be known as the County Planning and Zoning Commission of Sussex County is created and the area over which this Commission shall have jurisdiction shall be known as the County Planning District.

(9 Del. C. 1953, § 6802; 56 Del. Laws, c. 95.)

### § 6803. Commission members; appointment, terms and qualifications.

(a) The Commission shall consist of 7 members as follows:

(1) Two nonvoting, ex officio members, the County Engineer and a member of the county government; and

(2) Five voting members all of whom shall be appointed by the county government.

(b) The term of the county government member and the County Engineer shall come to an end at the end of the term for which they were elected or chosen respectively. The members of the Commission appointed by the Department of Transportation, Department of Health and Social Services, the Department of Natural Resources and Environmental Control and the Department of Agriculture shall serve at the pleasure of the appointing authority.

(c) The voting members appointed by the county government shall be appointed as follows:

(1) During the month of June of each year in which a term of any members theretofore appointed by the county government expires, the county government shall appoint members to the Commission. The terms of office shall commence on the July 1 following appointment. Each member shall serve until that member's successor is appointed and qualified. Each member shall be appointed for a term of 3 years, except that a member appointed to fill a vacancy occurring for any reason other than expiration of term, shall be appointed for the unexpired term. The appointed members shall be residents of Sussex County and no more than 2 members shall be appointed for the same council district.

(2) Each member shall be a freeholder and a resident of Sussex County. No more than 1 member shall live inside any incorporated city or town not included in county planning. No more than 3 members shall be of the same political party. Originally, 2 members shall be appointed for 3 years, 2 members for 2 years, and the remaining member for 1 year.

(3) Appointees shall be persons having the knowledge and experience to pass upon planning and zoning problems in connection with urban and rural development, and who at the time of appointment are not candidates for or incumbents of an elective public office.

(d) When any vacancy occurs in the Commission, either by death, resignation, expiration of term of office, removal, or otherwise, of any person so appointed, the vacancy shall be filled for the unexpired term by the body or person which appointed the member to the office in which such vacancy occurred.

(e) The members of the Commission shall serve without compensation, but shall be paid their necessary expenses incurred in the performance of their duties.

(9 Del. C. 1953, § 6803; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B; 59 Del. Laws, c. 212, § 1; 60 Del. Laws, c. 503, § 22; 70 Del. Laws, c. 44, §§ 1-5; 70 Del. Laws, c. 149, § 5; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 186, § 20; 77 Del. Laws, c. 441, § 1.)

## § 6804. Commission organization; power and duties.

(a) At the first regularly scheduled meeting of the Commission in July of each year, the Commission shall convene and organize by selecting a chair. Before entering upon the duties of the office, each member shall take and subscribe the oath or affirmation prescribed by the Constitution. The Commission may create and fill such other offices in addition to chair as it may determine. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(b) Three voting members of the Commission shall constitute a quorum.

(c) The county government shall provide suitable and convenient office space for the use and occupancy of the Commission, and shall furnish and supply all necessary equipment for the office.

(9 Del. C. 1953, § 6804; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B; 65 Del. Laws, c. 58, § 1; 70 Del. Laws, c. 186, § 1.)

## § 6805. Secretary and personnel of Commission.

(a) The Commission shall appoint a Secretary who shall serve for such time, and perform such duties and receive such compensation as the Commission may prescribe. The secretary shall give bond if required by the Commission in such amount as the Commission may require.

(b) The Commission may appoint, discharge at pleasure and fix the compensation of such employees and staff or any contract for the services of such persons, firms, or corporations as, from time to time, in its judgment may be necessary to the exercise of its powers under this chapter; provided, however, that all actions of the Commission under this subsection are subject to county government approval, and the county government may require any employee to give bond with surety approved by it in a sum to be fixed by the Commission.

(9 Del. C. 1953, § 6805; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B; 70 Del. Laws, c. 186, § 1.)

## § 6806. Assistance to Commission by County.

The county government may, from time to time, upon request of the Commission and for the purpose of special surveys, assign or detail to the Commission any members of the administrative staffs or agencies of the County, or direct any such staff or agency to make for the Commission special surveys or studies requested by the Commission.

(9 Del. C. 1953, § 6806; 56 Del. Laws, c. 95.)

## § 6807. Comprehensive development plan of the District.

(a) The Commission shall prepare a plan as expressed in maps, figures, and text which shall, among other elements, include: Statements of objectives, standards, principles and policies pertaining to the physical development of the District; existing and proposed patterns and intensity of land use; existing and proposed traffic circulation and transportation systems; existing and proposed public facilities, programs and utilities. The plan shall include such other features and programs as may come wholly or partially within county jurisdiction; and in addition, include those planning elements existing and proposed within a city or town as are likely to bear an important relationship to the physical development of the district. The plan shall be a public record, but its purpose and effect shall be solely as an aid to the Commission in the performance of its duties. A copy of the plan shall be forwarded to the State Planning Office and all municipalities within the County for review. After the Commission adopts the plan or amendments thereto, the plan shall be forwarded to the county government for formal action.

(b) The Commission may also prepare a recommended 6-year capital improvements program including an annual capital budget and various codes and ordinances intended to implement the comprehensive plan.

(c) The Commission may, from time to time, amend, extend or add to the plan under the provisions of subsection (a) of this section.

(d) The plan may cover areas within the corporated limits of any city or town in Sussex County, to the extent that such areas shall be deemed, in the judgment of the Commission, to be related to the planning of the District. The plan shall have no legal effect in such areas except when such areas request inclusion within the District as provided for in § 6802 of this title.

(e) The Commission shall encourage the cooperation of the cities and towns within Sussex County in any matter concerning the plan and, if requested, shall advise the governing body or authority of any city or town in Sussex County with respect thereto.

(9 Del. C. 1953, § 6807; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B.)

## § 6808. Investigations, maps and reports of Commission.

The Commission shall have full power to make such investigations, maps, and reports of the resources, condition and needs of the District as it deems desirable. Upon completion of such reports, the Commission shall submit the same to the county government with its recommendations. The Commission shall report annually to the county government on the activities of the Commission during the preceding year.

(9 Del. C. 1953, § 6808; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B.)

## § 6809. Official map of the County.

(a) There is established an official map of the County. The Commission shall be the maker and custodian of such map. The map shall show the location and lines of the public roads, easements, water courses and public lands within the County existing and/or established

by law at the time of the preparation and setting up of the map by the Commission; and shall show the location of the lines of the roads, easements, water courses and public lands on plats which shall have been approved by the Commission at or previous to that time.

(b) Whenever the Commission has prepared an approved official map or any amendment, extension or addition thereto, it shall submit, after public hearing, the approved official map or such amendment, extension or addition thereto, to the county government for its adoption. If the official map or amendment, extension or addition thereto shall pertain to the road system of or any road in Sussex County, the official map or any amendment, extension or addition thereto shall also be submitted to the Department of Transportation for its review and recommendation. Upon receipt of the recommendation from the Department of the official map or such amendment, extension or addition thereto, it shall be returned to the county government for its adoption. If adopted by the county government, the map shall be recorded in the Recorder's office within 30 days after such action.

(c) The Commission may, from time to time, amend, extend, add to or remove from the official map all roads established or vacated by law, or as established by subsection (b) of this section.

(9 Del. C. 1953, § 6809; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B; 60 Del. Laws, c. 503, § 22.)

## § 6810. Submission of road plats to Commission; recording; fees; regulations.

(a) The location, proposed grades and drainage of all roads intended to be dedicated by the owner thereof to the public use or for the use of owners of property abutting thereon or adjacent thereto within the limits of the District shall be submitted to the Commission for its approval and the adoption of the county government and no person shall record any plan or map showing the location of any new or proposed road in any public office in Sussex County unless such plan or map shall show thereon by endorsement its approval by the Commission and its adoption by the county government. The approval of such plan or map by the Commission and the adoption thereof by the county government endorsed upon such plan or map shall, when recorded, be deemed and taken as an acceptance of the intended dedication of the roads appearing thereon, but shall not impose any duty upon the county government or upon the Department of Transportation respecting the maintenance or improvement thereof. Such plan or map shall, when recorded, become a part of the official map. The Commission may adopt and the county government may approve such regulations as are deemed advisable for the removal of snow from the streets appearing on the plan from the time the plan is recorded until the obligation to maintain such improvements is assumed either by a maintenance corporation or by an appropriate public agency.

(b) No plat of land within the District shall be received or recorded by the Recorder of Deeds in and for Sussex County or filed for recording in the Recorder's office until the plat shall have been submitted to and approved by the Commission after public hearing and approved by the county government, and such approvals be endorsed in writing on the plat by the Chair or Secretary of the Commission and President of the county government. The filing or recording of a plat without the approval of the Commission and the county government shall, upon application of the Commission or the county government, to the Superior Court in and for Sussex County, Delaware, be deleted from the records.

(c) On the basis of the estimated cost of the services including filing fees and cost of legal notice to be rendered by it in connection with the consideration of such plats and the work incident thereto, the Commission may fix the scale of fees to be paid to it and may from time to time amend such scale. In the case of each plat submitted to the Commission, the fee thus fixed shall be paid before the plat is approved or disapproved.

(d) Every such plat shall be prepared by a registered professional engineer or land surveyor and shall be prepared upon stabilized plastic film of such size and character, with such notations, information as the Commission may, by regulation prescribe, and shall have such monuments, permanent markers, boundary stones or stations as the Commission shall prescribe, which shall be shown and designated on the plat thereof. The Commission shall also require a certification by the registered professional engineer or land surveyor that the monuments, permanent markers, boundary stones or stations have been properly installed and verified as to final location at the completion of the project. The Commission shall prescribe the procedure for the submission of such plat and action in respect thereto.

(9 Del. C. 1953, § 6810; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B; 60 Del. Laws, c. 503, § 22; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 255, § 3.)

## § 6811. Approval or disapproval of plat by Commission; appeal.

The Commission shall approve or disapprove a plat within 45 days after the submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission upon demand. Such period may be extended by mutual agreement between the Commission and the applicant for the Commission's approval. The grounds of disapproval of any plat shall be stated upon the records of the Commission and a copy of such statement shall be furnished to the applicant. No plat shall be acted upon by the Commission without affording a hearing thereon as outlined in § 6812 of this title and notice of the time and place of which shall be sent by registered mail to such applicant not less than 5 days before the date fixed therefor. Any approval or disapproval may be appealed to the county government within 30 days of the official action of the county government.

(9 Del. C. 1953, § 6811; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B.)

## § 6812. Public hearing and notice.

(a) Any public hearing required by this chapter shall be held within the County and notice of the time and place thereof shall be published in 2 newspapers of general circulation in the County. Notice shall be published at least 15 days before the date of the hearing.

In addition, notice of the hearing shall be posted on the property itself. The notice shall state the place at which the text and maps relating to the proposed change may be examined.

(b) Public notice of any formal action taken in regard to public hearings as required by this chapter shall be published once in a newspaper of general circulation in the County within 15 days of such action.

(9 Del. C. 1953, § 6812; 56 Del. Laws, c. 95; 65 Del. Laws, c. 19, § 1.)

## § 6813. Recording unapproved plat; penalty for.

Any Recorder who formally files or records any plat or map contrary to the provisions of this chapter shall be fined not less than $100 nor more than $500.

(9 Del. C. 1953, § 6813; 56 Del. Laws, c. 95.)

## § 6814. Cooperation with other agencies.

(a) Upon the request of the county government, the Commission shall, or upon the request of the Department of Transportation, the Department of Health and Social Services, the Division of Environmental Control, or any other state, county, or municipal agency, board, department, commission or authority, the Commission may, upon such terms as may mutually be agreed upon, prepare plans and supply information relating to any of the matters set forth in this chapter.

(b) In exercising the powers conferred by this chapter, the Commission is empowered to act in conjunction and cooperation with representatives, agencies, or officers of the United States government, this State, any other state, or any county, city or town within or without this State.

(9 Del. C. 1953, § 6814; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B; 60 Del. Laws, c. 503, § 22; 70 Del. Laws, c. 149, § 6.)

## § 6815. Entry upon land; access to records.

(a) In the performance of the functions and duties of the Commission, any member thereof or any employee or agent thereof shall have the right to enter into and upon, at reasonable times (Sundays and holidays excluded) between the hours of 8:00 a.m. and 5:00 p.m., any lands in the District, either public or private, and to make surveys and to place and maintain necessary monuments and markers thereon, but such entry shall be made with due care and regard for the protection and preservation of property.

(b) In the performance of the functions and duties of the Commission, any member, employee or agent thereof shall have free access, without expense, to all state, county, municipal and other public records.

(9 Del. C. 1953, § 6815; 56 Del. Laws, c. 95.)

## § 6816. Appropriation.

The county government may appropriate out of the general county fund such moneys, otherwise unappropriated, as it may deem fit to finance the work of the Commission and may enforce the regulations and restrictions which are adopted pursuant to this chapter, and may accept grants of money and service for these purposes, and other purposes, in accordance with this chapter, from either private or public sources, state or federal.

(9 Del. C. 1953, § 6816; 56 Del. Laws, c. 95; 57 Del. Laws, c. 762, § 11B.)

## § 6817. Powers and duties of Department of Transportation not affected.

Nothing contained in this chapter shall change, alter, affect or modify the rights, powers and duties elsewhere conferred upon the Department of Transportation.

(9 Del. C. 1953, § 6817; 56 Del. Laws, c. 95; 60 Del. Laws, c. 503, § 22.)

## § 6818. Powers and duties of municipal corporations not affected.

Nothing contained in this chapter shall change, alter, affect, or modify the rights, powers and duties prior to July 13, 1967, conferred upon any municipal corporation over, in or upon any lands lying outside of the corporate limits of the municipal corporation.

(9 Del. C. 1953, § 6818; 56 Del. Laws, c. 95.)

## § 6819. Residential facilities for persons with disabilities.

(a) For purposes of all county zoning ordinances a residential facility licensed or approved by a state agency serving 10 or fewer persons with disabilities on a 24-hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For the purposes of this section, the term “persons with disabilities” includes any persons with a handicap or disability as those terms are defined in the Delaware Fair Housing Act (Chapter 46 of Title 6).

(62 Del. Laws, c. 390, § 3; 74 Del. Laws, c. 149, §§ 7, 8.)

## § 6820. Notice to local school districts of residential subdivision plans or changes in residential subdivision plans that increase density.

With respect to the initial approval of a residential subdivision plan or any change in a residential subdivision plan that increases residential density, the county government shall notify the local school district for the area at least 7 days prior to any such approval process.

(66 Del. Laws, Sp. Sess., c. 195, § 2.)

# Part IV
# Sussex County
## Chapter 69
## Zoning
## Subchapter I
## General Provisions

### § 6901. Definitions.

All definitions used in § 6801 of this title shall apply to this subchapter, and as used in this subchapter, unless the same shall be inconsistent with the context:

(1) "Nonconforming structure" means a structure or part of a structure manifestly not designed to comply with the applicable use provisions in a zoning regulation or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or code or amendment by reason of its location. Such nonconforming structures include nonconforming signs.

(2) "Nonconforming use" means a use, whether of land or of a structure, which does not comply with the applicable use provisions in a zoning regulation or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or code or amendment, or prior to the application of such ordinance or code or amendment by reason of its location.

(3) "Structure" means any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to the land. The word "structure" includes the word "building."

(9 Del. C. 1953, § 6901; 56 Del. Laws, c. 97; 66 Del. Laws, c. 207, § 1.)

### § 6902. Power and jurisdiction of county government.

(a) The county government may, in accordance with the conditions and procedure specified in this subchapter, regulate the location, height, bulk and size of buildings, parking areas, and other structures, the percentage of lot which may be occupied, the size of yards, courts and other open spaces, the density and distribution of population, the location and uses of buildings, parking areas, and structures for trade, industry, residence, parking, recreation, public activities or other purposes and the uses of land for trade, industry, residence, recreation, public activities, water supply conservation, soil conservation or other similar purposes, in that portion of Sussex County which is not included within the corporate limits of any city or town, unless any territory within such corporate limits is included upon request made by the governing body or authority of such city or town, notwithstanding any provision of other titles or chapters of this Code to the contrary. Any real property proposed to be used for an agritourism activity as defined in this title shall be given an expedited review before the County Council.

(b) Notwithstanding subsection (a) of this section, no such regulation or regulations shall apply to any land, building, greenhouse or other structure proposed to be devoted to any agricultural use, or which is devoted at the time of such proposal to agricultural use, or to any land, building, greenhouse or other structure owned by a cooperative agricultural associations or a corporation which is or is proposed to be devoted to agricultural use. For the purposes of this subsection, any land, building, greenhouse or structure shall be deemed to be devoted to agricultural use if:

(1) The land, building, greenhouse or structure is assessed pursuant to § 8335 of this title;

(2) The land, building, greenhouse or structure is within an Agricultural Preservation District pursuant to Chapter 9 of Title 3;

(3) The person who owns, leases or otherwise controls the land, building, greenhouse or structure is required to implement a nutrient management plan or agricultural waste management plan for the same and the land, building, greenhouse or structure itself is devoted to or used in the production for sale of plants and animals useful to man, including but not limited to:

a. Forages and sod crops;

b. Grains and feed crops;

c. Dairy animals and dairy products;

d. Poultry and poultry products;

e. Livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals;

f. Bees and apiary products;

g. Fish, hydroponic and aquacultural products;

h. Fur animals; and

i. Trees and forest products;

(4) The land, building, greenhouse or structure is devoted to and meets the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government; and

(5) The land, building or structure is a farm market or roadside stand provided:

a. The products offered for sale are grown or produced on the subject farm or lands in agriculture production associated with such farm operation; or

b. The products are grown or produced on a local regional farm, and such farm market or roadside stand shall comply with the following provisions:

1. All buildings, structures and associated canopies shall comply with the building height setback requirements established by the local jurisdiction within its zoning ordinances. All construction shall conform to applicable building codes and building permit requirements as enacted by the local jurisdiction;

2. Off street customer parking shall be provided in accordance with the provisions of the zoning ordinance of the local jurisdiction provided that at least 1 parking space shall be provided for each 100 square feet of floor area of the establishment. The area of 1 parking space shall be equivalent to a standard parking stall of 9# x 18#;

3. If a new vehicular entrance is proposed to support a farm market or roadside stand, an entrance permit shall be obtained from the Delaware Department of Transportation prior to the start of construction; and

4. Signage shall comply with signage provisions and permitting requirements established by the local jurisdiction within its zoning ordinances.

(c) Notwithstanding subsection (a) of this section, no such regulation or regulations shall apply to the agricultural uses of conducting hayrides, horseback riding, guided tours, barn parties and petting zoos.

(9 Del. C. 1953, § 6902; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 64 Del. Laws, c. 78, § 1; 66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 144, § 3; 75 Del. Laws, c. 244, §§ 5, 6; 76 Del. Laws, c. 409, § 4; 78 Del. Laws, c. 143, §§ 1-3; 80 Del. Laws, c. 141, § 3.)

## § 6903. Zoning map and regulations.

(a) For any or all of the purposes specified in § 6902 of this title, the county government may divide the territory of Sussex County into districts or zones of such number, shape, or area as it may determine, and within such districts, or any of them, may regulate the erection, construction, reconstruction, alteration, and the nature and extent of use of buildings and structures, and the nature and extent of the use of land.

(b) All such regulations shall be uniform for each class or kind of buildings throughout any district, but the regulations in 1 district may differ from those in other districts.

(c) The county government shall provide for the manner in which regulations shall be enforced, prescribe penalties for violations and shall designate the administrator of the regulations. The administrator so designated shall have authority to act as such throughout the County.

(9 Del. C. 1953, § 6903; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12.)

## § 6904. Purposes of regulations.

(a) Regulations adopted by the county government, pursuant to the provisions of this subchapter, shall be in accordance with the approved comprehensive development plan and shall be designated and adopted for the purpose of promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of Sussex County, including, amongst other things, the lessening of congestion in the streets or roads or reducing the waste of excessive amounts of roads, securing safety from fire, flood, and other dangers, providing adequate light and air, preventing on the one hand excessive concentration of population and on the other hand excessive and wasteful scattering of population or settlement, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and provide adequate provisions for public requirements, transportation, water flowage, water supply, water and air pollution abatement, drainage, sanitation, educational opportunities, recreation, soil fertility, food supply, protection of the tax base, securing economy in governmental expenditures, fostering the State's agricultural and other industries, and the protection of both urban and nonurban development.

(b) The regulations shall be made with reasonable consideration, among other things, of the character of the particular district involved, its peculiar suitability for particular uses, the conservation of property values and natural resources and the general and appropriate trend and character of land, building and population development.

(9 Del. C. 1953, § 6904; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 66 Del. Laws, c. 207, § 1.)

## § 6905. Planning and Zoning Commission; appointment; term and qualifications.

In order to avail itself of the powers conferred by this subchapter, the county government shall appoint a permanent commission of 5 members which shall be known as the County Planning and Zoning Commission of Sussex County and who shall be the same voting members appointed under § 6803 of this title and its organization, meeting, office of the Commission, Secretary of the Commission, and other personnel shall be the same as in §§ 6804 and 6805 of this title.

(9 Del. C. 1953, § 6905; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 66 Del. Laws, c. 207, § 1.)

## § 6906. Assistance from and cooperation with other agencies.

In performing its zoning function the Commission may make use of the expert advice and information which may be furnished by appropriate state, federal, or other officials, departments and agencies. All officials, departments, and agencies within the State having information, maps and data pertinent to county zoning shall make the same available for the use of the Commission, as well as furnish such other technical assistance and advice as they may have available for such purpose.

(9 Del. C. 1953, § 6906; 56 Del. Laws, c. 97.)

## § 6907. Tentative zoning proposal preparation by Commission.

(a) The Commission shall make, as promptly as possible, for certification to the county government, a zoning proposal based upon and in full accordance with the adopted comprehensive development plan including both the full text of the zoning regulation or regulations and the maps for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, size of lots, courts, and other open spaces, density and distribution of population; for the use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and for the uses of land for trade, industry, recreation, public activities, soil conservation, water supply conservation or other similar purposes.

(b) After the creation of the Commission and prior to the creation of the adopted comprehensive development plan and prior to the tentative zoning proposal described in subsection (a) of this section, an interim holding zone proposal to control the development of land may be instituted by Sussex County pursuant to § 6909 of this title as a temporary measure, but in no case shall the interim zoning be effective beyond December 31, 1970.

(9 Del. C. 1953, § 6907; 56 Del. Laws, c. 97; 57 Del. Laws, c. 217; 57 Del. Laws, c. 762, § 12.)

## § 6908. Public hearing and notice.

Any public hearing required by this subchapter shall be held in accordance with § 6812 of this title.

(9 Del. C. 1953, § 6908; 56 Del. Laws, c. 97; 66 Del. Laws, c. 207, § 1.)

## § 6909. Commission's powers in conduct of public hearings.

For the purpose of any public hearing under this subchapter, the Commission shall have power to summon witnesses, administer oaths and compel the giving of testimony. A taped recording or written transcript shall be made and become a part of the Commission's public records.

(9 Del. C. 1953, § 6909; 56 Del. Laws, c. 97; 64 Del. Laws, c. 78, § 2; 66 Del. Laws, c. 207, § 1.)

## § 6910. Adoption by county government of zoning map and regulations; public hearings and notice; consultative hearings; resubmission to Commission.

(a) Before the adoption of any zoning proposal or zoning regulations, the county government shall hold a public hearing in accordance with § 7002(m) of this title.

(b) The county government may conduct consultative hearings prior to the required public hearing to aid it in determining the desirability of contemplated or recommended regulations.

(c) No change in or departure from text or maps, as certified by the Commission, shall be made unless such change or departure shall first be submitted to the Commission for its approval or disapproval or suggestions. The Commission shall have 45 days from and after such submission within which to send its report to the county government, but the county government shall not be bound by the report.

(9 Del. C. 1953, § 6910; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 64 Del. Laws, c. 78, § 3.)

## § 6911. Changes in zoning district; map or regulations; procedure.

(a) The county government may, from time to time, make amendments, supplements, changes or modifications (herein called "changes") in accordance with the comprehensive development plan with respect to the number, shape, boundary or area of any district or districts, or any regulation of, or within, such district or districts, or any other provision of any zoning regulation or regulations, but no such changes shall be made or become effective until the same shall have been proposed by or be first submitted to the Commission.

(b) With respect to any proposed changes, the Commission shall hold at least 1 public hearing pursuant to § 6812 of this title.

(c) Unless the Commission shall have transmitted its report upon the proposed changes within 45 days after the submission thereof to it, the county government shall be free to proceed to the adoption of the changes without further awaiting the receipt of the report of the Commission. In any event, the county government shall not be bound by the report of the Commission. Before finally adopting any changes, the county government shall hold a public hearing thereon pursuant to § 7002(m) of this title. Additionally, notice of the hearing by the county government shall be posted on the property itself.

(9 Del. C. 1953, § 6911; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 64 Del. Laws, c. 78, § 4.)

## § 6912. Zoning coordination.

The Commission may cooperate with other planning and zoning commissions within Sussex County and within other counties and states, and with legislative and administrative authorities of incorporated or unincorporated municipalities, either within or without such

County, with a view to coordinating and integrating the zoning of the County with the planning and zoning of other counties or states or of municipalities. The Commission shall also have power to appoint such committee or committees, and adopt such rules for the conduct of its business, as it may deem proper to effect such cooperation or to more expeditiously and effectively perform its functions.

(9 Del. C. 1953, § 6912; 56 Del. Laws, c. 97.)

## § 6913. Board of Adjustment — Appointment, terms and qualifications; removal; vacancies; compensation.

The county government shall appoint a Board of Adjustment of 5 members, subject to the same terms and qualifications as indicated in § 6803(c) of this title.

(9 Del. C. 1953, § 6913; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12.)

## § 6914. Board of Adjustment — Office and personnel.

The county government shall furnish the Board of Adjustment with necessary office space and other facilities. Subject to the approval of the county government, the Board may employ such secretarial and technical assistants as may be required to perform its functions properly.

(9 Del. C. 1953, § 6914; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12.)

## § 6915. Board of Adjustment — Rules governing organization, procedure and jurisdiction.

The county government shall provide and specify in its zoning or other regulations, general rules to govern the organization, procedure and jurisdiction of the Board of Adjustment, which rules shall not be inconsistent with this subchapter, and the Board of Adjustment may adopt supplemental rules of procedure not inconsistent with this subchapter or such general rules.

(9 Del. C. 1953, § 6915; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 66 Del. Laws, c. 207, § 1.)

## § 6916. Appeals to the Board of Adjustment — Who may take; procedure.

(a) Appeals to the Board of Adjustment may be taken by any person refused a building permit, or from the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of the zoning regulations. Appeals to the Board of Adjustment may be taken by any property owner, officer, department, board or bureau of the county affected by the grant or refusal of a building permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of the zoning regulations.

(b) The time within which such appeal must be made, and the effect, form, or other procedure relating thereto, shall be as specified in the general rules provided by the county government to govern the procedure of the Board of Adjustment or in the supplemental rules of procedure adopted by the Board.

(c) Appeals taken to the Board of Adjustment may be referred by the Board of Adjustment to the Commission for its review and recommendations.

(9 Del. C. 1953, § 6916; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 64 Del. Laws, c. 78, § 5.)

## § 6917. Appeals to the Board of Adjustment — Powers upon appeals.

Upon appeals, the Board of Adjustment shall have the power to:

(1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning regulations;

(2) Hear and decide, in accordance with the provisions of any zoning regulation, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which the Board is authorized by any zoning regulation to pass;

(3) Hear and decide requests for variances. The Board may grant a variance in the application of the provisions of the zoning ordinance or code only if all of the following findings are made:

a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship or exceptional practical difficulty is due to such conditions, and not to circumstances or conditions generally created by the provisions of the zoning ordinance or code in the neighborhood or district in which the property is located;

b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance or code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

c. That such unnecessary hardship or exceptional practical difficulty has not been created by the appellant;

d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning ordinance or code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

(9 Del. C. 1953, § 6917; 56 Del. Laws, c. 97; 69 Del. Laws, c. 82, §§ 1, 2.)

## § 6918. Superior Court review of decision of Board of Adjustment; procedure.

(a) Any persons jointly or severally aggrieved by a decision of the Board of Adjustment or any taxpayer or any officer, department, board or bureau of the County may present to the Superior Court in and for Sussex County, a petition duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board.

(b) Upon the presentation of the petition, the Court may allow a writ of certiorari, directed to the Board of Adjustment, to review the decision of the Board of Adjustment, and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the Court.

(c) The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

(d) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. The cost of the transcript of the hearing appealed from shall be the responsibility of the person appealing the decision unless said costs are allowed against the Board as provided in subsection (g) of this section.

(e) If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made.

(f) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(g) Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(9 Del. C. 1953, § 6918; 56 Del. Laws, c. 97; 64 Del. Laws, c. 78, § 6; 70 Del. Laws, c. 186, § 1.)

## § 6919. Violations of regulations; enforcement; remedies and penalties.

(a) No person shall erect, construct, reconstruct, alter, maintain or use any building or structure or use any land in violation of any regulation in, or of any provision of, any zoning regulation, or any change thereof, enacted or adopted by the county government under the authority of this subchapter.

(b) Whoever violates any such regulation, provision or change of this subchapter, shall be fined not more than $100 or imprisoned not more than 10 days, or both.

(c) Each and every day during which such illegal erection, construction, alteration, maintenance or use continues shall be deemed a separate offense.

(d) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used in violation of this subchapter or of any regulation or provision of any regulation or change thereof, enacted or adopted by the county government under the authority granted by this subchapter, the county government, the attorney thereof, or any owner of real estate within the county in which such building, structure or land is situated, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(9 Del. C. 1953, § 6919; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12; 66 Del. Laws, c. 207, § 1.)

## § 6920. Nonconforming uses of land or structure.

(a) Nonconforming uses of land or structure may, except as provided in subsection (b) of this section, be continued although such use does not conform with the provisions of such regulations or change thereof, provided no structural alteration of such structure is proposed or made for the purpose of such continuance.

(b) If the County acquires title to any property by reason of tax delinquency and such properties are not redeemed as provided by law, the future use of such property shall be in conformity with the then existing provisions of the zoning regulations of the County, or with any change of such regulations, equally applicable to other like properties within the district in which the property acquired by the County is located.

(9 Del. C. 1953, § 6920; 56 Del. Laws, c. 97.)

## § 6921. List of nonconforming structures and uses.

Immediately after the adoption of any zoning regulations or changes by the county government, the Commission shall prepare and publish a complete list of all nonconforming structures and uses in the affected area and existing at the time of the adoption of the regulations. Such lists shall contain the names and addresses of the owner or owners of such nonconforming structures and uses and of

any occupant, other than the owner, and list the nonconforming structure or use and applicable section of the zoning regulation. Any necessary corrections shall be made under a procedure prescribed by the county government, and copies of such list shall, when approved by the county government, be filed for record in the offices of the Commission and the Board of Adjustment.

(9 Del. C. 1953, § 6921; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12.)

### § 6922. Appropriations.

The county government may appropriate out of the general county fund such moneys, otherwise unappropriated, as it may deem fit to finance the work of the Zoning Commission and of the Board of Adjustment, and may enforce the zoning regulations and restrictions which are adopted, and may accept grants of money and service for these and other purposes, in accordance with this chapter, from either private or public sources, state or federal.

(9 Del. C. 1953, § 6922; 56 Del. Laws, c. 97; 57 Del. Laws, c. 762, § 12.)

### § 6923. Conflict between zoning regulations and other laws.

Whenever any regulations made under authority of this subchapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in or under any other statute or local regulation, the provisions of the regulations made under authority of this subchapter shall govern. Whenever the provisions of any other statute or local regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by any regulations made under authority of this subchapter, the provisions of such statute shall govern.

Whenever the provisions of any other statute shall derogate from the provisions of this subchapter, unless it be a statute granting powers to the State Planning Office, the provisions of this subchapter shall govern.

(9 Del. C. 1953, § 6923; 56 Del. Laws, c. 97; 66 Del. Laws, c. 207, § 1.)

### § 6924. Notice to local school districts of residential zoning changes.

With respect to any proposed residential zoning change, the county government shall notify the local school district for the area at least 7 days prior to the initial hearing upon such residential zoning change.

(66 Del. Laws, Sp. Sess., c. 195, § 1.)

### § 6925. Changes in zoning.

In the case of a rezoning application the county government shall determine its voting requirement necessary to take action thereon, which shall not be less than a majority of all members elected to county council.

(68 Del. Laws, c. 272, § 3.)

### § 6926. Notice to property owners of zoning changes.

With respect to any proposed zoning change, unless the owner applies for the change or consents to the change, the county government shall notify the owner of the property and all property owners to the extent and in the manner the county by ordinance so provides as of June 28, 2000, mailed at least 7 days prior to the initial hearing upon such zoning change.

72 Del. Laws, c. 415, shall become effective for zoning changes initiated after July 13, 2000.

(72 Del. Laws, c. 415, §§ 3, 4.)

### § 6927. Emergency Communication Systems [Effective until Feb. 1, 2027].

The zoning ordinance and regulations adopted pursuant to this chapter shall provide that newly constructed buildings of 25,000 square feet of gross floor area or more, shall be designed, constructed and/or equipped in accordance with the provisions set forth in § 2616 of this title.

(76 Del. Laws, c. 181, § 3.)

### § 6927. Emergency Communication Systems [Effective Feb. 1, 2027].

The zoning ordinance and regulations adopted pursuant to this chapter shall provide that newly constructed, modified, or renovated buildings of 25,000 square feet of gross floor area or more, shall be designed, constructed and/or equipped in accordance with the provisions set forth in § 2616 of this title. The terms “newly constructed buildings,” “modified,” or “renovated” mean as defined in § 2616 of this title.

(76 Del. Laws, c. 181, § 3; 85 Del. Laws, c. 296, § 3.)

## Subchapter II
## The Quality of Life Act

### § 6951. Short title; intent and purpose.

(a) This subchapter shall be known and may be cited as the “Quality of Life Act of 1988.” It is the purpose of this subchapter to utilize and strengthen the existing role, processes and powers of county governments in the establishment and implementation of comprehensive

planning programs to guide and control future development. It is the intent of this subchapter to encourage the most appropriate use of land, water and resources consistent with the public interest and to deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of county government can preserve, promote and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention and general welfare; facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing and other requirements and services; and conserve, develop, utilize and protect natural resources within their jurisdictions.

(b) It is also the intent of this subchapter to encourage and assure cooperation between and among municipalities, counties and the State and to encourage and assure coordination of planning and development activities of units of county government, municipalities, regional agencies and state government in accord with applicable provisions of law. A growth management plan or policy plan that meets the standards and requirements of this subchapter shall be an acceptable comprehensive plan. The land use map or map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with county land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(66 Del. Laws, c. 207, § 1.)

## § 6952. Definitions.

For the purposes of this subchapter:

(1) “Area” or “area of jurisdiction” means the total area qualifying under the provisions of this subchapter, being all unincorporated lands within a county.

(2) “Comprehensive plan” or “comprehensive development plan” shall mean, from and after the respective dates by which the counties must be in compliance with this subchapter, a plan that meets the requirements of this subchapter and that is reviewed and certified in accordance with § 9103 of Title 29. Wherever in this subchapter land use regulations are required to be in accordance with the comprehensive plan, such requirements shall mean only that such regulations must be in conformity with the applicable maps or map series of the comprehensive plan. Whenever in this subchapter land use orders, permits or zoning district changes are required to be in accordance with the comprehensive plan, such requirements shall mean only that such orders, permits and changes must be in conformity with the map or map series of the comprehensive plan and county land use regulations enacted to implement the other elements of the adopted comprehensive plan.

(3 “Coordination” as used in this chapter means, in general terms, to act jointly, concurrently, and/or harmoniously toward a common end or purpose.

(4) “County” means Sussex County.

(5) “Developer” means any person, including a governmental agency, undertaking any development as defined in this subchapter.

(6) “Development” means any construction or reconstruction of any new or existing commercial or residential building(s) or structure(s) upon lands which are not owned by the State or its agencies or its political subdivisions, or are not within the jurisdictional control of the State or its agencies or its political subdivisions.

(7) “Development order” means any order granting, denying or granting with conditions an application for a development permit.

(8) “Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certificate of occupancy, special exception, variance or any other official action of local government having the effect of permitting the development of land.

(9) “Governing body” means the chief governing body of county government, however designated, or the combination of such bodies where joint utilization of the provision of this subchapter is accomplished as provided herein.

(10) “Governmental agency” means:

a. The United States or any department, commission, agency or other instrumentality thereof.

b. This State or any department, commission, agency or other instrumentality thereof.

c. Any local government, as defined in this section, or any department, commission, agency or other instrumentality thereof.

d. Any school board or other special district, authority or governmental entity.

(11) “Land” means the earth, water and air, above, below or on the surface, and includes any improvements or structures customarily regarded as land.

(12) “Land development regulation commission” means a commission designated by a county government to develop and recommend, to the local governing body, land development regulations which implement the adopted comprehensive plan and to review land development regulations, or amendments thereto, for consistency with the adopted plan and to report to the governing body regarding its findings. The responsibilities of the land development regulation commission may be performed by the local planning agency.

(13) “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any county government zoning, rezoning, subdivision, building construction or sign regulations or any other regulations controlling the development of land.

(14) “Land use” means the development that has occurred on the land, the development that is proposed by a developer on the land or the use that is permitted or permissible on the land under an adopted comprehensive plan.

(15) “Local government” means any municipality.

(16) “Local planning agency” means the agency designated to prepare the comprehensive plan required by this subchapter.

(17) A “newspaper of general circulation” means a newspaper published at least on a weekly basis and printed in the language most commonly spoken in the area within which it circulates, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper whose primary function is to carry legal notices or a newspaper that is given away primarily to distribute advertising.

(18) “Parcel of land” means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

(19) “Person” means an individual, corporation, governmental agency, statutory trust, business trust, estate/trust, partnership, association, 2 or more persons having a joint or common interest or any other legal entity.

(20) “Public facilities” means major capital improvements over which the County has jurisdiction.

(21) “Public notice” or “due public notice” as used in connection with the phrase “public hearing,” “hearing to be held after due public notice” or “public meeting” means publication of notice of the time, place and purpose of such hearing at least twice in a newspaper of general circulation in the area.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 42, 43; 73 Del. Laws, c. 329, § 50; 85 Del. Laws, c. 343, § 3.)

## § 6953. Scope of subchapter.

(a) The County shall have power and responsibility:

(1) To plan for its future development and growth.

(2) To adopt and amend comprehensive plans, or elements or portions thereof, to guide its future development and growth.

(3) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof. In furtherance of the authority to adopt, amend and implement comprehensive plans or elements or portions thereof to guide and control future growth, counties are expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones or parcels of land to districts, zones or areas designated to receive such development rights. Such regulations may provide for the establishment of development right banking. Whenever a County exercises its authority to provide for the transfer of development rights it shall:

a. Comply with all requirements of this subchapter pertaining to the amendment of a comprehensive plan;

b. Provide for the transfer of development rights as an option to the use and development of the subject property according to the otherwise applicable zoning ordinance;

c. Limit designation of receiving areas to locations where the County has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either the existing or planned public facilities which serve the area to accommodate such growth;

d. Demonstrate that the creation and regulation of both sending and receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plan and Statewide Planning Goals and Objectives established pursuant to Chapter 91 of Title 29; and

e. Consider appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with other counties or municipalities which would permit the transfer and use of development rights between counties and municipalities.

(4) To establish, support and maintain administrative instruments and procedures to carry out the provisions and purposes of this subchapter.

(b) Each county government shall prepare a comprehensive plan of the type and in the manner set out in this subchapter or amend its existing comprehensive plan to conform to the requirements of this subchapter.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 44; 72 Del. Laws, c. 122, § 4.)

## § 6954. Areas under this subchapter.

A county shall exercise authority under this subchapter for the total unincorporated area under its jurisdiction.

(66 Del. Laws, c. 207, § 1.)

## § 6955. Local planning agency.

(a) The governing body of each county government shall designate and by ordinance establish a “local planning agency.” The governing body may designate itself as the local planning agency pursuant to this subsection. The local planning agency shall prepare

the comprehensive plan after meetings to be held after due public notice and shall make recommendations regarding the adoption of such plan or element or portion thereof. The agency may be a local planning commission, the planning department of the county government or other instrumentality, including a countywide planning entity established by special act or council of local government officials, provided the composition of the council is fairly representative of all the governing bodies in the County.

(b) The governing body or bodies shall appropriate funds for salaries, fees and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purpose and activities authorized by this subchapter, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(c) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(1) Be the agency responsible for the preparation of the comprehensive plan and shall make recommendations regarding the adoption of such plan or element or portion thereof consistent with existing county laws or regulations. During the preparation of the plan, and prior to any recommendation for adoption, the local planning agency shall hold at least 1 public hearing or public meeting on the proposed plan or element or portion thereof. The local planning agency may designate any agency, committee, department or person to prepare, revise, monitor and oversee the effectiveness and status of the comprehensive plan or any element thereof. Prior to adoption of the proposed comprehensive plan, the governing body shall hold at least 1 public hearing, with due public notice, on the proposed plan or element thereof. Final recommendation of the adoption of such plan to the governing body shall be in accordance with existing county procedures, or absent such procedures, shall be the responsibility of the local planning agency.

(2) Review proposed land development regulations, land development codes or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan.

(3) Perform any other functions, duties and responsibilities assigned to it by the governing body or special law.

(66 Del. Laws, c. 207, § 1.)

## § 6956. Required and optional elements of comprehensive plan; studies and surveys [Effective until Nov. 15, 2026].

(a) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area.

(b) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(c) A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(1) Principles for construction, extension or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(2) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities and projected revenue sources to fund the facilities.

(3) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(4) To the extent provisions of the Capital Improvements Plan anticipate state financial assistance, involvement or cooperation, such provisions shall be developed in conjunction with the State Capital Improvement Plan and Annual Capital Budget.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications which are consistent with the plan, or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(e) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the county, adjacent counties and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the county, adjacent counties and applicable state regulations and policy as the case may require. Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter.

(f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the implementation of the plan and its elements.

(g) The comprehensive plan shall include:

(1) A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environment and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be based on [consistent with] projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Delaware Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved Area-wide Wastewater Treatment Plans.

(4) A conservation element for the conservation, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, wood uplands, habitat areas, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, silvacultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open space element. The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including but not limited to guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

h. An affordable housing plan that complies with subchapter III of Chapter 92 of Title 29.

(7) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the County, adjacent counties or on the applicable state regulations.

(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Delaware Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and personnel utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations. The economic development element shall be developed in consultation with and reviewed by the Division of Small Business.

(11) An educational element consistent with the plans of the local school districts which guide the construction and allocation of school facilities within the districts, if such plans exist. This element will be developed with input from the local school districts, the Department of Education, and the Office of State Planning and Coordination. The educational element shall include recommendations for promoting coordination between residential development and adequate school capacity and must take into account any adequate public facilities ordinance or other county code provisions related to school capacity.

(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency.

(i) Transferred.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 55-59; 73 Del. Laws, c. 186, § 5; 74 Del. Laws, c. 186, § 13; 78 Del. Laws, c. 92, § 17; 81 Del. Laws, c. 49, § 13; 81 Del. Laws, c. 374, § 42; 83 Del. Laws, c. 434, § 3; 85 Del. Laws, c. 343, § 3.)

## § 6956. Required and optional elements of comprehensive plan; studies and surveys [Effective Nov. 15, 2026].

(a) The comprehensive plan shall consist of materials in such descriptive form, either written or graphic, as may be appropriate to the prescription of principles, guidelines and standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area.

(b) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process.

(c) A capital improvements plan covering at least a 5-year period shall be developed in accordance with the adoption of, and be consistent with, the comprehensive plan. The capital improvements plan shall be designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

(1) Principles for construction, extension or increase in capacity of public facilities, as well as principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan.

(2) Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities and projected revenue sources to fund the facilities.

(3) Standards to ensure the availability of public facilities and the adequacy of those facilities.

(4) To the extent provisions of the Capital Improvements Plan anticipate state financial assistance, involvement or cooperation, such provisions shall be developed in conjunction with the State Capital Improvement Plan and Annual Capital Budget.

(d) The capital improvements plan shall be reviewed on an annual basis and modified as necessary. Corrections, updates and modifications concerning costs, revenue sources, acceptance of facilities pursuant to dedications which are consistent with the plan, or the date of construction of any facility enumerated in the capital improvements plan may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All proposed improvements to public facilities shall be consistent with the capital improvements plan.

(e) Coordination of the comprehensive plan with the comprehensive plans of municipalities within the county, adjacent counties and applicable state regulations and policy shall be an objective of the comprehensive planning process. To that end, in the preparation of a

comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the planning agency shall include a specific policy statement or coordinated mapping element indicating the relationship of the proposed development of the area to the comprehensive plans of municipalities within the county, adjacent counties and applicable state regulations and policy as the case may require. Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter.

(f) The comprehensive plan and its elements shall contain policy recommendations and a timeline for the implementation of the plan and its elements.

(g) The comprehensive plan shall include:

(1) a. A future land use plan element designating proposed future general distribution, location and extent of the uses of land for such activities as residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities and other categories of the public and private uses of land. The plan shall include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies and measurable objectives. Each land use category shall be defined in terms of the types of uses included and standards for the density or intensity of use. The future land use plan shall be based upon surveys, studies and data regarding the area, including the amount of land required to accommodate anticipated growth, the projected population of the area, the character of undeveloped land and the availability of public services. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this subchapter. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. Population, demographic, environmental and economic data and projections used to determine present conditions, future land use and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be based on [consistent with] projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified.

b. The future land use plan must reflect strategies which consider community resiliency and reduce the vulnerability of property, agriculture, infrastructure, and cultural and natural resources to the impacts of climate change, including sea level rise, changes in rainfall patterns, and extreme weather events. The strategies must be informed by the Delaware Climate Action Plan and implementation reports as amended and in consultation with the Office of State Planning and Coordination.

(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, walking trails, rail facilities, terminals and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices and consider alternatives to auto-centric development patterns, including transit services, where applicable for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment and consider the designated evacuation routes as set forth by the appropriate state agencies.

(3) A water and sewer element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, and wastewater disposal for the area. County government, in conjunction with the State, shall assess their current, as well as projected, water needs and sources. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The water and sewer element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved Area-wide Wastewater Treatment Plans.

(4) A conservation element for the conservation, restoration where appropriate, use and protection of natural resources in the area and which results in the identification of these resources. At a minimum, the element shall consist of such natural area classifications as wetlands, forests, uplands, habitat areas, and wildlife corridors, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes. The land use map or map series contained in the future land use element shall generally identify and depict natural areas classifications, such as those enumerated in this section. The land uses identified on said maps shall be consistent with applicable state laws and regulations. Identification and depiction of the above shall be based on the best topographic maps and other information available from state and federal agencies or other sources that the County deems appropriate. The conservation element shall also consider areas most suited for agricultural uses, silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Department of Agriculture and the Department of Natural Resources and Environmental Control.

(5) A recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities. A county recreation and open space plan is acceptable in lieu of a recreation and open

space element. The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities.

(6) A housing element that is consistent with county housing plans, standards and principles. Such housing plans shall be in accordance with state and federal rules and regulations and the housing plan or housing element of the comprehensive plan shall include the following:

a. The provision of housing for existing residents and the anticipated growth of the area. Anticipated growth scenarios must be in conformance with the strategies reflected in the future land use plan and encourage development of new housing growth away from areas vulnerable to inland and coastal flooding.

b. The elimination of substandard dwelling conditions.

c. The structural and aesthetic improvement of existing housing.

d. The provision of adequate sites for future housing, including housing for low-income and moderate-income families, group home facilities and foster care facilities, with supporting infrastructure and public facilities.

e. Provision for relocation housing and identification of historically significant and other housing for purposes of conservation, rehabilitation or replacement.

f. The formulation of housing implementation programs.

g. Demonstrated coordination with the State Housing Authority including, but not limited to, guidelines to ensure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available.

h. An affordable housing plan that complies with subchapter III of Chapter 92 of Title 29.

(7) An intergovernmental coordination element of the comprehensive plan shall demonstrate consideration of the particular effects of the plan, when adopted, upon the development of municipalities within the County, adjacent counties or on the applicable state regulations.

(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Delaware Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and personnel utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities and other locations. The economic development element shall be developed in consultation with and reviewed by the Division of Small Business.

(11) An educational element consistent with the plans of the local school districts which guide the construction and allocation of school facilities within the districts, if such plans exist. This element will be developed with input from the local school districts, the Department of Education, and the Office of State Planning and Coordination. The educational element shall include recommendations for promoting coordination between residential development and adequate school capacity and must take into account any adequate public facilities ordinance or other county code provisions related to school capacity.

(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency.

(i) Transferred.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 55-59; 73 Del. Laws, c. 186, § 5; 74 Del. Laws, c. 186, § 13; 78 Del. Laws, c. 92, § 17; 81 Del. Laws, c. 49, § 13; 81 Del. Laws, c. 374, § 42; 83 Del. Laws, c. 434, § 3; 85 Del. Laws, c. 343, § 3; 84 Del. Laws, c. 397, § 3.)

## § 6957. State responsibilities to local planning agencies.

(a) All elements of the comprehensive plan shall be based upon data appropriate to the element involved. State agencies shall provide to each county upon request existing data or information necessary to expedite the development and preparation of the comprehensive plan and elements of this section. Surveys and studies utilized in the preparation of the comprehensive plan shall not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys and supporting documents shall be made available to public inspection, and shall be made available to the public upon payment of reasonable charges for reproduction. The County shall be

relieved of any requirement to comply with the data and information requirements of this subchapter when the State is unable to supply the necessary data and information to implement that requirement, except when such data and information is currently available or readily accessible to the county within budgetary limitations.

(b) The State, through the Office of State Planning Coordination, shall provide to the County, for use in the comprehensive planning process, state land use and development goals and policies, state regulatory requirements, estimates of future state financial capabilities, the State Capital Improvements Budget and Plan, state facility location plans, estimates of existing quantity of natural resources, economic development strategies and any other information which might reasonably influence the county's future land use decisions. The State shall provide the County with long-range plans, performance standards, land development polices, facility siting criteria and infrastructure impact assessment standards (necessary to ensure the availability of public facilities and the adequacy of those facilities), so as to enable the County to prepare the plan elements required by § 6956 of this title and to clearly set forth the criteria the State will use to review such elements. The review by the Cabinet Committee on State Planning Issues shall be pursuant to § 9103 of Title 29. During preparation of the county comprehensive plan, the county and the State shall jointly establish guidelines for the location and arrangement of public facilities, such as public schools, health care facilities, public safety and correctional institutions, libraries and other public buildings. Such guidelines shall be used to coordinate between the various levels of government so as to ensure that public buildings and facilities are located in a manner which are consistent with state and county development goals.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 55, 56; 74 Del. Laws, c. 186, § 14; 78 Del. Laws, c. 92, § 18.)

## § 6958. Evaluation and appraisal of comprehensive plan.

(a) The comprehensive plan or amendments or revisions thereto shall be submitted to the Governor or designee at such time as the plan is made available for public review. The County shall provide sufficient copies for review by the Cabinet Committee on State Planning Issues. Within 30 days of plan submission, the Cabinet Committee on State Planning Issues shall conduct a public meeting, at which time the County shall make a presentation of the plan and its underlying goals and development policies. Following the public meeting the plan shall be subject to the state review and certification process set forth in § 9103 of Title 29.

(b) This State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the county where the county's adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with State development policies, including policies related to affordable housing.

(c) The planning programs shall be a continuous and ongoing process. The local planning agency shall prepare a report on the progress of implementing the comprehensive plan, which shall be sent to the Office of State Planning Coordination each year after adoption of the comprehensive plan. The report shall be due annually no later than on each anniversary of the effective date of the most recently adopted comprehensive plan or plan update until January 1, 2012, and annually no later than July 1 each year thereafter starting on July 1, 2012. The Cabinet Committee shall forward the report to the Office of State Planning Coordination, which will evaluate it in the context of state goals, policies and strategies, and the plans of other jurisdictions. The Office of State Planning Coordination will integrate the information, land use trends, and changing conditions found in the County's report into the annual report of the Cabinet Committee, which is to be prepared as specified in § 9101(d), Title 29. It is the intent of this subchapter that periodic updates on amendments to and the implementation of adopted comprehensive plans be communicated through the evaluation and appraisal reports to ascertain trends, monitor implementation and foster ongoing coordination.

(d) The report shall present an assessment and evaluation of the success or failure of the comprehensive plan or element or portion thereof, and shall contain appropriate statements (using words, maps, illustrations or other forms) related to:

(1) The major problems of development, physical deterioration and the location of land uses and the social and economic effects of such uses in the area.

(2) The condition of each element in the comprehensive plan at the time of adoption and at date of report.

(3) The comprehensive plan objectives as compared with actual results at date of report.

(4) The extent to which unanticipated and unforeseen problems and opportunities occurred between date of adoption and date of report.

(e) The report shall include reformulated objectives, policies and standards in the comprehensive plan or elements or portions thereof.

(f) The Cabinet Committee may prescribe a format and guidelines for the preparation of the County's report. Should the Cabinet Committee elect to do so, the Office of State Planning Coordination shall assist the Committee in the development and administration of such guidelines.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, §§ 55-59; 73 Del. Laws, c. 186, § 5; 74 Del. Laws, c. 186, §§ 13-16; 78 Del. Laws, c. 92, §§ 19-22; 85 Del. Laws, c. 343, § 3.)

## § 6959. Legal status of comprehensive plan.

(a) After a comprehensive plan or element or portion thereof has been adopted by County Council or Levy Court in conformity with this subchapter, the land use map or map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with land development regulations enacted to implement the other elements of the adopted comprehensive plan.

(b) Nothing in this subchapter shall serve to invalidate any comprehensive plan, land development regulation, land use, development, development order or development permit which presently exists or which hereafter validly comes into existence prior to the date when full compliance with this subchapter is required.

(c) Any application for a development permit filed or submitted prior to adoption or amendment under this subchapter of a comprehensive plan or element thereof shall be processed under the comprehensive plan, ordinances, standards and procedures existing at the time of such application.

(d) All development permits and development orders heretofore or hereafter validly issued or approved by county government and not thereafter limited, rescinded or restricted shall automatically be incorporated into and become part of the present and all future comprehensive plans, subject to whatever time limitations may otherwise apply to such permits and orders at the time of issuance or approval.

(e) In the event that any comprehensive plan or element required to comply with this subchapter shall be determined as failing to comply herewith, such failure shall not invalidate those elements of the plan which do comply with this subchapter, nor invalidate any previously issued development permit or order that was not specifically and timely challenged in the legal action in which such noncompliance was determined.

(66 Del. Laws, c. 207, § 1; 70 Del. Laws, c. 270, § 55.)

## § 6960. County comprehensive plan.

(a) The County shall submit a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than 5 years after the adoption of the current plan; provided, however, that the County may request an extension of such date by forwarding a written request to the Cabinet Committee at least 90 days prior to the deadline. The basis for the request shall be clearly indicated. The decision whether to grant a request an extension, and the duration of such extension, shall be at the discretion of the Cabinet Committee. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision and other land use decisions. Such plan shall be updated every 10 years thereafter.

(b) Once the county government shall have in place said comprehensive plan, the County shall not be permitted to amend such plan without a simple majority of the entire membership thereof voting to do so.

(c) Within 1 year of the date of adoption of the county plan, the County shall initiate an implementation program regarding subdivision and development controls. The County shall report the status of the implementation program in the monitoring report as required by this subchapter. This report should include progress to date, problems, issues and opportunities.

(d) Subsequent amendments to the county comprehensive plan required by this chapter shall be submitted to the Cabinet Committee on State Planning Issues for review and certification pursuant to § 9103 of Title 29.

(e) Within 12 months of the date of adoption of the county comprehensive plan or revisions thereof, Sussex County shall amend its official zoning map or maps to rezone all lands in accordance with the uses and intensities of uses provided for in the future land use element for the County.

(1) In the event that the County does not complete the rezoning required under this subsection within the required 12-month period, a rezoning application filed by a property owner shall be approved by the County if the requested zoning classification is consistent with the future land use map or map series and applicable implementing provisions of the comprehensive plan, unless the County makes written findings, based on substantial evidence in the record, that 1 or more of the following apply:

a. The requested zoning classification is inconsistent with the future land use map or map series or applicable implementing provisions of the comprehensive plan.

b. The application fails to satisfy applicable procedural or submission requirements.

(2) The County shall determine whether a rezoning application filed by a property owner under paragraph (e)(1) of this section is complete within 21 days of submission. If the County does not issue a written completeness determination within 21 days, the application is deemed complete.

(3) The County shall take final action on the rezoning application within 120 days after the application is determined or deemed complete, unless the applicant agrees in writing to an extension. Final action on any associated site plan is not subject to the 120-day timeline.

(4) If the County denies a rezoning application under this subsection, the denial must be in writing and must identify the specific future land use map designation or statutory standard upon which the denial is based.

(5) If a public hearing was held in connection with adoption of the comprehensive plan or revision of the comprehensive plan, that hearing shall satisfy all hearing and notice requirements otherwise required under this title. This provision does not prevent a local land use agency from adopting hearing and notice requirements.

(f) In the event that the comprehensive plan includes provisions governing the rate of growth of particular planning districts or sub-areas of the County, the County's zoning district regulations shall be amended to reflect the timing elements of the comprehensive plan.

(66 Del. Laws, c. 216, § 1; 70 Del. Laws, c. 270, §§ 55, 60, 61; 73 Del. Laws, c. 186, § 6; 74 Del. Laws, c. 186, §§ 13, 17; 78 Del. Laws, c. 92, §§ 23, 24; 78 Del. Laws, c. 129, § 3; 85 Del. Laws, c. 343, § 3.)

## § 6961. Information from state and local agencies and school districts.

(a) All subdivision plans approved by the county government shall be filed with the Office of the Recorder of Deeds, and with such other state and local agencies as the County may by ordinance require.

(b) As part of its review of a rezoning or subdivision application, the county government through its designated local planning agency shall request and review information from all state and local agencies and local school districts identified on a list prepared by the County and shall file as part of the record any written information provided by such state and local agencies or local school districts with respect to the rezoning or subdivision application. If the planning agency makes recommendations that are in conflict with the information supplied by state and local agencies or local school districts, it must explain its reasons for doing so in writing.

(c) Any state or local agency or local school district which delivers to the head of county government a written request that it be notified of rezoning and subdivision applications shall be included on the County's list of agencies and school districts from which information shall be requested and reviewed in accordance with subsection (b) of this section.

(d) This section shall only apply to residential development and only upon an action by Sussex County Council adopting this section. Prior to recording a major record subdivision plan, as defined by Sussex County, Sussex County may require that the applicant provide certification from the Secretary of the Department of Education after consultation with the superintendent of the appropriate individual school district that the school district has adequate capacity for the proposed development.

(1) If so requested, the Secretary shall respond to any request for certification or voluntary school assessments within 60-days' receipt of a completed request for such certification. That certification shall include the following information:

a. Existing classrooms and service levels based upon the Delaware Department of Education Delaware School Construction Manual, September 19, 1996, as may be amended or supplemented from time to time, or based upon other standards accepted as current by the Secretary of the Department of Education.

b. Capacity calculations, which shall include the current student population, increased demand resulting from prior certifications from the Department of Education, and the increased demand that will result from the proposed development. The County shall within 20 days provide the Department of Education with all necessary information regarding the number and type of dwelling units proposed and other information which the Secretary may request.

(2) Notwithstanding the foregoing provisions of this subsection, no certificate of adequate school capacity shall be required where either: (i) the residential development is restricted by recorded covenants to provide housing or shelter predominantly for individuals 55 years of age or older pursuant to the federal Fair Housing Act (42 U.S.C § 3601 et seq.); (ii) the residential development is for "low-income housing," which, for purposes of this section, shall be defined to mean any housing financed by a loan or mortgage that is insured or held by the Secretary of Housing and Urban Development or the Delaware State Housing Authority or which is developed by a nonprofit corporation certified under § 501(c)(3) of the United States Internal Revenue Code (26 U.S.C. § 501(c)(3)); or (iii) the applicant has pledged, in a writing recorded and running with the subject property, to pay a voluntary school assessment in an amount determined pursuant to § 103(c) of Title 14, for each lot for which the applicant would otherwise be required to obtain a certificate.

(3) Voluntary school assessments will be calculated on a per unit basis as of the time of the issuance of the first building permit, and the assessment shall remain constant throughout the development of the subdivision (and shall not be increased for any reason, including but not limited to any resubdivision); provided, however, that after 5 years the voluntary school assessment amount may be recalculated. Any voluntary school assessments paid under this subsection shall be paid to the Department of Education at the time that a certificate of occupancy is obtained for each unit, and shall be deposited by the Department into an interest-bearing account as set forth below. With the approval of the Secretary, after consultation with the superintendent of the affected school district, an applicant may receive a credit against voluntary assessments to be paid in an amount equal to the fair market value of any lands or properties set aside by the applicant and deeded to the school district for school uses. Any such lands shall not be used for nonschool purposes, other than as parkland or open space. All voluntary assessments paid shall be held in an interest-bearing account by the State for the school district in which the applicant's project is located until such time as the school district engages in construction activities that increase school capacity, at which time such assessments shall be released to the school district by the State in the amount of the voluntary school assessments paid into an interest-bearing account for such district. It is the intent of this section that lands or properties required to be conveyed by the applicant to Sussex County as a condition to subdivision approval shall not be eligible to be used for purposes of obtaining a credit against the voluntary school assessment notwithstanding the fact that such lands or properties may subsequently be conveyed by the County to a school district.

(4) To the extent Sussex County has adopted (or in the future attempts to adopt) any regulations or ordinances linking or tying residential development to school capacity, or otherwise restricting residential development in the absence of school capacity, such regulations and ordinances are hereby preempted and of no force and effect.

(66 Del. Laws, Sp. Sess., c. 198, § 1; 70 Del. Laws, c. 270, § 55; 84 Del. Laws, c. 210, § 1; 84 Del. Laws, c. 297, §§ 166, 178; 85 Del. Laws, c. 3, § 15.)

## § 6962. Highway capacity; traffic impact study requirements.

(a) Subject to subsection (b) of this section, the county government shall not approve any proposed change in the zoning classification for land (i.e., any "rezoning request"), a new roadway access associated with site development, or for any other purpose without first

complying with either the procedures contained in paragraphs (a)(1)a. through (a)(1)d. of this section or the procedures contained in paragraphs (a)(2)a. through (a)(2)c. of this section:

(1) a. As soon as possible, but in any event no later than June 30, 2027, the county government, through its designated planning agency, shall establish an agreement with the Department of Transportation to provide a procedure for analysis by the Department of Transportation of the effects on traffic of each rezoning application.

b. Each agreement under paragraph (a)(1)a. of this section shall be approved by a resolution or ordinance, consistent with county procedures, and shall establish traffic level of service suitable to the County and the Department of Transportation.

c. The purpose of the agreement under paragraph (a)(1)a. of this section shall be to ensure that traffic analyses are conducted as part of the zoning reclassification process within the County and to allow for analysis to assess whether the County's approval of a change to the zoning classifications for land, a new roadway access associated with site development, or for any other purpose will create a new financial or infrastructure obligation to this State that is not consistent with the current edition of the Strategies for State Policies and Spending.

d. The agreement under paragraph (a)(1)a. of this section shall provide for the review of traffic impacts according to nationally recognized traffic criteria and shall, at a minimum, consider the effects of existing traffic, projected traffic growth in areas surrounding a proposed zoning reclassification, and the projected traffic generated by the proposed site development for which the zoning reclassification is sought.

(2) a. The County Council, through its designated planning agency, shall establish an agreement with the Department of Transportation to designate a Complete Community Enterprise District as described in §§ 2103 and 2104 of Title 2.

b. The local planning agency shall hold at least 1 public hearing on the proposed agreement created under paragraph (a)(2)a. of this section and public comment must be permitted at the public hearing.

c. The local planning agency shall provide due public notice of the public hearing required by paragraph (a)(2)b. of this section at least twice, the first notice at least 60 days prior to the public hearing and the second notice at least 30 days prior to the public hearing.

(b) If the county government enacts an ordinance, or a county agency adopts a regulation, that requires a traffic impact study for a proposed change in the zoning classification for land, a new roadway access associated with site development, or for any other purpose, the ordinance or regulation must at least provide the following:

(1) That the threshold for determining if a traffic impact study is required must be based on peak hour trips, not vehicle trips per day, and the threshold must at least meet the following:

a. For a residential development, 500 peak-hour trips.

b. For a commercial development, 500 peak-hour trips, excluding pass-by trips.

(2) That the traffic impact study is not required in a "Downtown Development District" or "Downtown Development Corridor," as defined under § 1902 of Title 22.

(66 Del. Laws, c. 217, § 1; 70 Del. Laws, c. 270, § 55; 80 Del. Laws, c. 224, § 4; 85 Del. Laws, c. 344, § 6.)

## § 6963. Residential density requirements.

(a) For purposes of this section, "growth area" means an area designated within a county comprehensive plan as a growth area and also consistent with areas identified by the Strategies for State Policies and Spending for growth as Investment Levels 1 and 2, or any successor classifications adopted by this State.

(b) Notwithstanding § 6902(a) of this title, this subchapter, or any provision of this Code to the contrary, and subject to subsection (c) of this section, a county government shall adopt zoning ordinances and land development regulations within a growth area that do all of the following:

(1) Permit a variety of housing types, including townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential developments.

(2) Establish bulk, dimensional, and design standards that reasonably accommodate the housing types permitted under paragraph (b)(1) of this section at densities established in paragraph (c)(2) of this section.

(3) Encourage development patterns that reduce vehicular trips, increase pedestrian connectivity, support transit-oriented development, and promote mixed-use development consistent with guidance issued by the Department of Transportation.

(c) By June 1, 2027, by regulation, or in the county's comprehensive plan if due that same year, and thereafter at least once every 10 years in the county's comprehensive plan, a county government shall adopt residential growth area density requirements to do all of the following:

(1) Based on the guidance under subsection (e) of this section, develop and periodically update residential density requirements applicable to growth areas throughout the county, beginning with a minimum density threshold of 4 units per acre for single family homes and increasing minimum density thresholds for other housing types.

(2) Require residential development meet density requirements while recognizing that varying development densities may be appropriate within different portions of a designated growth area of the county.

(3) Encourage compact, infrastructure-efficient, and housing-supportive development patterns within growth areas of the county.

(d) Each time the comprehensive plan adopted under subsection (c) of this section is approved, the county government shall issue updated regulations or ordinances effectuating the residential growth area density requirements, which must be developed in consultation with the following, or a designee of the following:

(1) The Director of the State Housing Authority.

(2) The Secretary of the Department of Transportation.

(3) The Director of the Office of State Planning Coordination.

(4) The President of the Delaware League of Local Governments.

(5) The Governor.

(e) The Delaware State Housing Authority shall develop guidance for residential density requirements applicable to growth areas throughout this State starting with a minimum density threshold of 4 units per acre for single family homes and increasing minimum density thresholds for other housing types. The guidance must include all of the following:

(1) Recommendations for permitting a variety of housing types, including townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential development.

(2) Recommendations for establishing bulk, dimensional, and design standards that reasonably accommodate the housing types permitted under paragraph (e)(1) of this section.

(3) Recommendations, developed in consultation with the Department of Transportation, for development patterns that reduce vehicular trips, increase pedestrian connectivity, support transit-oriented development, and promote mixed-use development.

(85 Del. Laws, c. 344, § 7.)

## Subchapter III

## Citizens Bill of Rights Act

### § 6999. Court review of land use actions; limitations on liability of individuals and associations.

Any individual or association of individuals that challenges or opposes a zoning, subdivision or other land use application, and seeks judicial review of a decision concerning the application in a manner prescribed by statute, shall not be liable to any other party to the judicial review for seeking such a review, except for such costs as are expressly provided for by the rules of court.

(66 Del. Laws, Sp. Sess., c. 200, § 1.)

# Part IV
# Sussex County
## Chapter 70
## County Government and County Administrators

### § 7001. Powers of the government of Sussex County.

(a) *General powers.* — The government of Sussex County, as established by this chapter, shall assume and have all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute; including, but not limited to, any powers conferred prior to the effective date of this act by the General Assembly upon Sussex County, or upon the Levy Court of Sussex County, or upon the Levy Court Commissioners of Sussex County, or upon the officers or employees of Sussex County, or upon counties generally, or upon Levy Court Commissioners generally, or upon County Councils generally. This grant of power includes the power to fix the tax rate upon the assessed valuation of all real property in Sussex County subject to assessment by the County. This grant of power does not include the power to enact private or civil law concerning civil relationships, except as incident to the exercise of an expressly granted power, and does not include the power to define and provide for the punishment of felonies.

(b) *Construction.* — The powers of Sussex County under this reorganization law shall be construed liberally in favor of the County, and specific mention of particular powers in the reorganization law shall not be construed as limiting in any way the general powers stated in subsection (a) of this section.

(c) *Intergovernmental relations.* — The government of Sussex County may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any 1 or more states or civil divisions or counties or agencies thereof, or the United States or any agency thereof.

(d) *Exercise of powers.* — All powers of the government of Sussex County shall be carried into execution as provided by this title or by other law of this State or if this title or other law of this State makes no such provision, as provided by ordinance or resolution of the county government of Sussex County.

(9 Del. C. 1953, § 7001; 57 Del. Laws, c. 762, § 1; 63 Del. Laws, c. 38, § 1.)

### § 7002. County government.

(a) *Number and term.* — The county government shall consist of 5 members. Unless otherwise provided by law, elected officials of the county governing body shall serve a term of 4 years, or until their successors have been elected and take office. Such officials shall take office on the first Tuesday in January following their election.

(b) *Qualifications.* — Such officials shall be citizens of the United States and qualified electors of the County. They shall be residents of the district from which they are elected or, in the event of redistricting of the district as adjusted, for at least 1 year prior to their election. The county government shall be the judge of the qualifications of its members.

(c) *Prohibitions.* — Except where authorized by law, no such official shall hold any other county or state office or employment by the county or state government during the term for which such official was elected to the county government. No former official shall hold any compensated appointed county office or employment until 1 year after the expiration of the term for which the official was elected to the county government.

(d) *Salary and expenses.* — The annual salary of each elected official shall be set and determined by the county government during the consideration and adoption of the annual operating budget ordinance. Such officials shall receive their actual and necessary expenses incurred in the performance of their duties of office.

(e) *Officers of county government.* — The county government shall elect annually at its first regular meeting in January, among its members, officers of the county government who shall have the titles of President of the county government and Vice-President of the county government. The President of the county government shall preside at meetings of the government and shall be recognized as head of the county government for all necessary purposes. The Vice-President of the county government shall act as the President of the county government during the absence or disability of the President.

(f) *Powers of county government.* — All powers of the County shall be vested in the county government, except as otherwise provided by this title or other laws of this State, and the county government shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the County by law.

(g) *Vacancies.* — (1) The office of an elected official of the county governing body shall become vacant upon the elected official's death, resignation, removal from office in any manner authorized by law, or forfeiture of the elected official's office in a manner set forth below.

(2) The office of such official shall be deemed to have been forfeited should the incumbent at any time during the official's term of office:

a. Lack qualifications for the office prescribed by this chapter or other law of the State;

b. Remove the official's residence from the district from which the official was elected;

c. Violate any express prohibitions of this title; or

d. Be convicted of a crime involving moral turpitude.

(3) When a vacancy occurs in the office of such official, the county government shall certify that a vacancy exists. The vacancy shall be filled for the unexpired term by a majority vote of all the remaining members of the county government. They shall appoint a qualified person to fill the vacancy for the unexpired term from the district where the vacancy occurred; provided that every vacancy shall be filled by a person of the same political party as that of the person whose unexpired term is being filled.

(4) If the county government fails to fill a vacancy within 30 days after the occurrence thereof, the Department of Elections shall call a special election in the district where the vacancy occurred; said election shall be for the unexpired term and shall be held within 90 days from the commencement of the vacancy.

(h) *Clerk of county government.* — The county government shall appoint and fix the salary of a Clerk of the county government who shall keep the journal of its proceedings, and perform such other duties as are assigned to the Clerk by this title or by the county government. The county government may provide for employees to serve in the office of the Clerk of the county government.

(i) *Investigations.* — The county government may make investigations into the affairs of the County and the conduct of any county department, office or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of pertinent evidence of any kind. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the county government shall be punishable in accordance with a schedule of fines and imprisonment established by the county government.

(j) *Independent audit.* — The county government shall provide for an independent annual audit of all county accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the county government or any of its officers. The county government may, without requiring competitive bids designate such accountant or firm annually or for a period not exceeding 3 years, provided that the designation for any particular fiscal year shall be made no later than 30 days after beginning of such fiscal year.

(k) *Procedure.* — (1) The county government shall meet regularly. The place and dates of such meetings shall be established by the county government as a part of the rules of procedure adopted for the conduct of its meetings. Special meetings may be held on the call of the President of the county government or of a majority of the members of the county government in accordance with rules adopted as a part of the rules of procedure of the county government.

(2) The county government shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings which shall be a public record.

(3) Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. A majority of all members of the county government shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the county government. No action of the county government, except as otherwise provided in this title, shall be valid or binding unless adopted with the concurrence of a majority of all of the members of the county government.

(*l*) *Actions required by ordinance.* — All actions of the county government which shall have the force of law shall be by ordinance.

(m) *Ordinances generally.* — (1) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance, except those relating to the budget or appropriation of funds and those relating to the adoption or revisions of the County Code shall contain more than 1 subject which shall be clearly expressed in its title. The enacting clause shall be "The County of Sussex hereby ordains." Any ordinance which repeals or amends an existing ordinance or part of the County Code shall set out in full that part of the ordinance, sections or subsections to be repealed or amended, and shall indicate the matter to be omitted by enclosing it in brackets and shall indicate new matter by underscoring or by italics.

(2) An ordinance may be introduced by any member at any regular or special meeting of the county government. Upon introduction of any ordinance, the Clerk of the county government all distribute a copy to each elected official of the county body and to the County Administrator; shall file a reasonable number of copies in the office of the Clerk of the county government and such other public places as the county government may designate; shall in 2 newspapers of general circulation in the county publish in bold type the ordinance or the title thereof together with a notice setting out the time and place for a public hearing thereon by the county government; and shall produce a sufficient number of copies thereof to meet reasonable demands therefor by interested citizens and others who may be affected by said ordinance. The public hearing shall follow the publication by at least 15 days; may be held separately or in connection with a regular or special county government meeting and may be adjourned from time to time and all persons interested will have a reasonable opportunity to be heard. The county government may make rules governing the holding of public hearings. After the public hearing the county government may adopt the ordinance with or without amendment or reject it, but if it is amended as to any matter of substance which is not embraced within the title of the ordinance, the county government may not adopt it until the ordinance or its amended sections have been subjected to all of the procedures hereinbefore required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Clerk of the county government shall number the ordinance and have it, or its title, published again, together with a notice of its adoption.

(3) Except as otherwise provided in this title, every adopted ordinance shall become effective immediately unless the ordinance itself stipulates a different date.

(n) *Consideration and adoption of the annual operating budget ordinance.* — (1) The county government, upon receipt of the proposed operating budget from the County Administrator, shall immediately publish a notice in all newspapers of general circulation in the County, setting forth:

a. A summary of the estimated revenues and expenditures;

b. The details of recommended new sources of revenue or increased rates of existing taxes, licenses, fees or other revenue;

c. That copies of the budget are available at the office of the Clerk of the county government;

d. The date, time and place at which the county government will commence its public hearings upon the proposed budget, which shall be not less than 21 days after the date of publication of such notice.

(2) The county government, upon conclusion of its public hearings but not later than July 1, shall adopt the operating budget ordinance in the form submitted by the County Administrator unless the county government shall have established additional general classes of expenditures for purposes of appropriation. The county government may increase, decrease or delete any item of appropriation recommended by the County Administrator. Upon concurrence of its members, the county government may add new items of appropriation.

(3) Amendments to the annual operating budget ordinance shall be considered and approved by the county government.

(o) *Emergency ordinances.* — To meet a public emergency affecting life, health, property or the public peace, the county government may adopt emergency ordinances, but such ordinances may not levy taxes, grant, review or extend a franchise, or authorize the borrowing of money except to issue emergency notes as provided by law. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or at such later time as it may specify. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(p) *Budgets of revenues.* — (1) The county government, at the meeting at which the annual operating budget ordinance is adopted and within the limits of its power and subject to other provisions of this title, shall ordain such taxes and other revenue measures as will yield sufficient revenue which, together with any available surplus, will balance the budget.

(2) Revenues shall be estimated only upon the bases of the cash receipts anticipated for the fiscal year.

(3) The estimated yield from each item of revenue and of the amounts of surplus to be used in the balancing of the budget shall be provided to the county government by the County Administrator. However, nothing in this paragraph shall exempt these proposed revenue measures from being proposed in accordance with subsection (m) of this section.

(q) *Official map of the County.* — (1) There is established an official map of Sussex County. The Planning and Zoning Commission as provided in subsection (a) of § 6809 of this title shall be the custodian of such map. The map shall show the location and lines of the public roads, easements, water courses, public lands and zoning districts within the County presently existing or established by law at the time of the preparation and setting up of the map and shall also show the location of the lines of the roads, easements, watercourses, public lands and zoning districts which have been approved by the county government.

(2) The Planning and Zoning Commission of Sussex County shall review the official map or any amendment, extension or addition thereto. After public hearing the Commission shall submit the official map or such amendment, extension or addition thereto along with its comments, to the county government. The county government shall not be bound by the report of the Commission and the county government may add, change or delete any portions of the proposed map, amendments, extension or addition thereto as it sees fit. If the official map, or amendment, extension or addition thereto shall pertain to the road system of or any road in Sussex County, the official map and any amendment, extension or addition thereto shall also be submitted to the Department of Transportation for its review and recommendation prior to adoption by the county government. If adopted by the county government, the map shall be recorded in the Recorder's office within 30 days after such action.

(3) The county government may, from time to time, amend, extend, add to or remove from the official map all roads established or vacated by law, provided that the same review process of the proposed action for amendment, extension or addition of the official map indicated in this section shall be followed.

(r) *Authentication, recording, codification and printing of ordinances.* — (1) The Clerk of the county government shall authenticate by the Clerk's signature and record in full, in a properly indexed book kept for that purpose, all ordinances and resolutions adopted by the county government.

(2) Within 5 years after the commencement of the system of government provided herein, and at least every 5 years thereafter, the county government shall provide for the preparation of the general codification of all county ordinances having the force and effect of continuing law. The general codification shall be adopted by the county government by ordinance and shall be published promptly in bound or loose-leaf form, together with pertinent provisions of the Constitution and other laws of this State applicable to Sussex County, and such codes of technical regulations and other rules and regulations as the county government may specify. This compilation shall be known and cited officially as the Sussex County Code. Copies of the County Code shall be distributed as directed by the county government.

(3) The county government shall cause each ordinance having the force and effect of law and each amendment to state law affecting the County to be reproduced promptly following its adoption; and the reproduced ordinances, and the amendments to state law shall be

distributed or sold to any person at reasonable prices to be fixed by the county government. Subsequent to the publication of the first Sussex County Code, the ordinances and the amendments to state law shall be printed or reproduced in substantially the same style as the County Code currently in effect and shall be suitable in form for integration therein. The county government shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State or the codes of technical regulations included in the County Code.

(s) *Adoption of pay plans.* — (1) All persons employed by the County or by any of its boards, whether as officers or otherwise, and paid either in part or in whole from appropriations made by the county government, except those whose compensation is fixed by state law, shall be compensated only in accordance with pay plans adopted by the county government.

(2) Promptly upon receipt from the County Administrator of any recommendation of measures for the establishment or amendment of a pay plan or portions thereof for persons in the classified service, the President of the county government may introduce an ordinance for the adoption of such recommendations. Not later than 60 days after receipt of such recommendations, the county government shall adopt or reject them as submitted or adopt them in such amended form as the county government may provide.

(t) *Creation of debt; authorization, procedures, debt limitation and anticipation borrowing.* — (1) The county government shall exercise all powers heretofore vested in the county government of Sussex County in connection with the creation of debt, and shall have the power to authorize the issuance of bonds and notes of Sussex County to finance the cost of any object, program or purpose for which Sussex County, or any officer, department, board or agency thereof, is, by this title or by any other law, authorized to raise, appropriate or expend money, or for the implementation and performance of functions, programs and purposes specified in this title or in any other law applicable to Sussex County; provided however, that the county government shall not have authority to create or to authorize the creation of any bonded indebtedness for any of the following purposes: The payment of any operating expenses; the payment of any judgment resulting from the failure of the County to pay any item of operating expense; or the payment for any equipment or any public improvements of a normal life of less than 3 years. The foregoing limitations shall not apply should the county government unanimously declare the existence of any emergency due to public calamity. The term “bonded indebtedness” shall not include the promissory notes issued pursuant to lines of credit for short-term borrowing purposes. “Short-term borrowing purposes” shall include borrowings with a term of not to exceed 5 years from date of such note, or a note that is payable upon demand of the obligee.

(2) The powers conferred by this chapter shall be in addition to and not in substitution for or in limitation of the powers conferred by any other law. Bonds and notes may be issued under this chapter for any object or purpose for which Sussex County is by this chapter or any other law authorized to raise or appropriate or expend money notwithstanding that any other law may provide for the issuance of bonds or notes for the same or like purposes and without regard to the requirements, restrictions or other provisions contained in any other law. Bonds and notes may be issued under this chapter notwithstanding any debt or other limitation prescribed by any other law, and the mode and manner of procedure for the issuance of bonds and notes and the adoption of the ordinance authorizing issuance of the bonds or notes under this chapter need not conform to the provisions of any other law or any other provision of this chapter.

(3) Bonds and notes issued pursuant to this chapter shall be authorized by ordinance of the county government approved by not less than $^{4}/_{5}$ of all of the members thereof; provided however, that the county government shall be authorized by resolution approved by a majority of all of the members thereof to establish lines of credit for short term borrowing purposes and to execute, issue and deliver promissory notes for amounts borrowed pursuant to said lines of credit. Each such ordinance or resolution shall state in brief and general terms the objects or purposes for which the bonds or notes are to be issued and the maximum aggregate principal amount of bonds or notes to be issued for each such object or purpose. Such ordinance, or a subsequent resolution of the county government pertaining to such ordinance, or a resolution of the county government, shall specify, or may delegate authority to the County Administrator to determine, with respect to any bonds and notes the following: Their date or dates; their maturity; the security therefor, if any, including a pledge of the County’s full faith and credit, if there is to be such a pledge; federal or state grants or other revenues or property; provisions for either serial or term bonds; sinking fund or other reserve fund requirements, if any; provisions for redemption prior to maturity, if any, with or without premiums; the interest rate or rates, including variable rates, and any limitation with respect thereto or the manner of their determination; the times and place or places within or without the State for the payment of principal and interest; the method of execution; the form; provisions, if any, for the consolidation of debt authorized for several objects and purposes pursuant to 1 or more ordinances into 1 consolidated issue; provisions, if any, for the receipt and deposit or investment of any good faith deposit; provisions for the public or private sale of bonds; and such other terms and conditions as the county government may determine to be in the best interest of the County. Debt incurred by the County pursuant to this chapter may be represented by uncertificated obligations of the County which may be applicable to bonds and notes which are permitted to be issued under this chapter, and the county government by resolution may determine, or it may delegate authority to the County Administrator to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(4) Bonds issued pursuant to this chapter may be sold at either public or private sale, upon such terms, conditions and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(5) The county government may pledge the full faith and credit of the County to secure the payment of the principal, interest and premium, if any, on any debt incurred pursuant to this chapter and/or may pledge any other security therefor. With respect to any debt to which the County’s full faith and credit is pledged, the authorizing ordinance and the debt instruments issued shall contain the

declaration that the principal, interest and premium, if any, are to be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount and that the full faith and credit of the County are pledged for payment. The county government shall annually levy and collect a tax ad valorem upon all property taxable by the County sufficient to pay the principal of and interest on each bond or note secured by the County's pledge of its full faith and credit as such principal and interest become due; provided, however, such tax may be reduced by the amount of other moneys appropriated and actually available for such purpose or provided for by local or special assessments or local service taxes.

(6) The outstanding general obligation bonded indebtedness of Sussex County secured by the full faith and credit of the County may not exceed 12% of the assessed valuation of all real property subject to taxation within the County. The outstanding bonded indebtedness of the County not secured by the County's full faith and credit is without limitation as to amount.

(7) The proceeds from the sale of bonds and notes issued under this chapter shall be used only for the object or purpose or objects or purposes specified in the ordinance authorizing such bonds or notes for the payment of the principal of and interest on temporary loans made in anticipation of the sale of such bonds or notes. If for any reason any part of such proceeds is not applied to or is not necessary for such purposes, such unexpended part of such proceeds shall be applied to the payment of the principal of or interest on such bonds or notes no later than the earliest date on which such bonds or notes may be called for redemption without premium, or shall be applied as set forth in such ordinance or resolution, or a subsequent ordinance or resolution of the County.

(8) All bonds, notes or other evidences of indebtedness issued pursuant to this chapter shall recite that they are issued for a purpose or purposes as specified in the authorizing ordinance or resolution and that they are issued pursuant to the terms of the Constitution and laws of this State and the County. Upon the sale and delivery of any such bonds, notes or other evidences of indebtedness against payment, such recitals shall be conclusive as to the right, power and authority of the County to issue the same and of the legality, validity and enforceability of the obligation of the County to pay principal and interest on the same. In case any county official whose signature or a facsimile thereof shall appear on any such bonds, notes or other evidences of indebtedness shall cease to be such officer before the delivery of such obligation, or in case the seal of the County which appears on any such obligation shall change before the delivery of such obligation, such signature, seal or facsimile thereof shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office and as if such seal had not changed. The legality, validity and enforceability of such bonds, notes or other evidences of indebtedness shall never be questioned in any court of law or equity by the County or any person after the issuance, execution and delivery against payment for the same. All such bonds, notes and other evidences of indebtedness are hereby declared to have all the qualities and incidents of negotiable instruments under the Commercial Code of this State.

(9) Notwithstanding any limitations herein to the contrary, the county government may borrow in the anticipation of the collection of taxes or any other revenues budgeted for any purposes for which taxes are levied.

(u) *Districts.* — There shall be 5 councilmanic districts. Districts 1, 2, 3, 4, and 5 are established as follows:

**1st Councilmanic District**

The 1st Councilmanic District shall comprise: Beginning at the intersection of the westerly boundary of Delaware with Maryland at its intersection with the center line of State Route 404; thence southeasterly along the center line of State Route 404 to its intersection with the center line of County Road 582; thence northeasterly along the center line of County Road 582 to its intersection with the center line of County Road 583; thence southerly along the center line of County Road 583 to its intersection with the center line of County Road 584; thence southeasterly along the center line of County Road 584 to its intersection with the center line of County Road 600; thence northeasterly along the center line of County Road 600 to its intersection with the center line of Nanticoke Branch; thence generally southerly along the center line of Nanticoke Branch to its intersection with the center line of County Road 40; thence westerly along the center line of County Road 40 to its intersection with the corporate limits of the Town of Bridgeville, thence northerly, westerly and southerly along the corporate limits of the Town of Bridgeville to its intersection with the center line of State Route 18; thence southwesterly along the center line of State Route 18 to its intersection with the center line of County Road 18; thence southeasterly and northeasterly along the center line of County Road 18 to its intersection with the center line of U.S. 13; thence southerly along the center line of U.S. 13 to its intersection with the center line of County Road 64; thence westerly along the center line of County Road 64 to its intersection with the center line of State Route 13; thence northerly along the center line of State Route 13 to its intersection with the center line of County Road 515; thence westerly and northerly along the center line of County Road 515 to its intersection with the center line of County Road 509; thence southwesterly along the center line of County Road 509 to its intersection with the center line of County Road 514; thence northerly along the center line of County Road 514 to its intersection with the center line of State Route 24; thence westerly along the center line of State Route 24 to its intersection with the center line of the Delaware-Maryland boundary; thence northerly along the center line of the Delaware-Maryland boundary to the point and place of beginning.

**2nd Councilmanic District**

The 2nd Councilmanic District shall comprise: Beginning at the intersection of the westerly boundary of Delaware with Maryland at its intersection with the center line of State Route 404; thence southeasterly along the center line of State Route 404 to its intersection with the center line of County Road 582; thence northeasterly along the center line of County Road 582 to its intersection with the center line of County Road 583; thence southerly along the center line of County Road 583 to its intersection with the center line of County Road 584; thence southeasterly along the center line of County Road 584 to its intersection with the center line of County Road 600; thence northeasterly along the center line of County Road 600 to its intersection with the center line of Nanticoke Branch; thence

generally southerly along the center line of Nanticoke Branch to its intersection with the center line of County Road 40; thence westerly along the center line of County Road 40 to its intersection with the corporate limits of the Town of Bridgeville, thence northerly, westerly, and southerly along the corporate limits of the Town of Bridgeville to its intersection with the center line of State Route 18; thence southeasterly and northeasterly along the center line of State Route 18 to its intersection with the center line of State Route 404; thence southeasterly along the center line of State Route 404 and State Route 18 to its intersection with the westerly branch of Gravelly Fork; thence southerly along the center line of the westerly branch of Gravelly Fork to its intersection with the center line of Gravelly Fork; thence northeasterly along the center line of the easterly branch of Gravelly Fork to its intersection with the center line of State Route 18; thence southeasterly along the center line of State Route 18 to its intersection with the center line of County Road 527; thence southerly along the center line of County Road 527 to its intersection with the center line of County Road 516; thence southerly along the center line of County Road 516 to its intersection with the center line of County Road 46; thence easterly along the center line of County Road 46 to its intersection with the center line of County Road 524; thence southeasterly along the center line of County Road 524 to its intersection with the center line of State Route 20; thence southeasterly, northeasterly and southeasterly along the center line of State Route 20 to its intersection with the center line of County Road 473; thence northeasterly, southeasterly and northeasterly along the center line of County Road 473 to its intersection with the center line of State Route 20; thence southeasterly along the center line of State Route 20 to its intersection with the boundary line between Nanticoke Hundred and Dagsboro Hundred; thence northerly along the center line of the boundary line of Nanticoke Hundred crossing County Road 62 to its intersection with the boundary line of Georgetown Hundred and Dagsboro Hundred; thence in an easterly direction along the boundary line between Nanticoke Hundred and Dagsboro Hundred to the point where Eli Walls' Ditch crosses County Road 318 which said point also marks a dividing line between Georgetown Hundred and Dagsboro Hundred; thence in a southeasterly direction along the center line of Eli Walls' Ditch to its intersection with the center line of Morris Mill Pond; thence northeasterly along the center line of Morris Mill Pond to its intersection with the center line of Deep Branch; thence northerly along the center line of Deep Branch to its intersection with the center line of State Route 30; thence northeasterly along the center line of Morris Mill Pond to its intersection with the center line of Deep Branch; thence northeasterly along the center line of Deep Branch to its intersection with the center line of State Route 30; thence northerly along the center line of State Route 30 to its intersection with the center line of County Road 47; thence northwesterly along the center line of County Road 47 to its intersection with the center line of County Road 321; thence northerly along the center line of County Road 321 to its intersection with the center line of State Route 18; thence easterly along the center line of State Route 18 to its intersection with the center line of County Road 249; thence northeasterly along the center line of County Road 249 to its intersection with the center line of County Road 248; thence northerly along the center line of County Road 248 to its intersection with the center line of County Road 319; thence southwesterly along the center line of County Road 319 to its intersection with the center line of County Road 565; thence westerly along the center line of County Road 565 to its intersection with the center line of County Road 239; thence northerly along the center line of County Road 239 to its intersection with the center line of County Road 238; thence southwesterly along the center line of County Road 238 to its intersection with the center line of County Road 579; thence westerly along the center line of County Road 579 to its intersection with the center line of the western boundary of the Penn Central Railroad right-of-way; thence northerly along the center line of the western boundary of the Penn Central Railroad right-of-way to its intersection with the northern boundary of the Ellendale State Forest; thence in a westerly direction along the center line of the northern boundary of the Ellendale State Forest to its intersection with the center line of County Road 213; thence in a northerly direction along the center line of County Road 213 to its intersection with the center line of the boundary line between Kent and Sussex Counties; thence westerly and southerly along the boundary between Kent and Sussex Counties to its intersection with the center line of the boundary of Delaware and Maryland; thence southerly along the boundary between Delaware and Maryland to the point and place of beginning.

**3rd Councilmanic District**

The 3rd Councilmanic District shall comprise: Beginning at the intersection of the boundary line between Kent and Sussex Counties and the Delaware Bay; thence in a westerly direction along the center line of the boundary line between Kent and Sussex Counties to its intersection with the center line of County Road 213; thence in a southerly direction along the center line of County Road 213 to its intersection with the center line of the northwest corner of Ellendale State Forest; thence in an easterly direction along the center line of the northern boundary of the Ellendale State Forest to its intersection with the center line of the westerly right-of-way of the Penn Central Railroad; thence southerly along the center line of the western boundary of the Penn Central Railroad to its intersection with the center line of County Road 579; thence easterly along the center line of County Road 579 to its intersection with the center line of County Road 238; thence northeasterly along the center line of County Road 238 to its intersection with the center line of County Road 239; thence southerly along the center line of County Road 239 to its intersection with the center line of County Road 565; thence easterly along the center line of County Road 565 to its intersection with the center line of County Road 319; thence northeasterly along the center line of County Road 319 to its intersection with the center line of County Road 248; thence southerly along the center line of County Road 248 to its intersection with the center line of County Road 249; thence southwesterly along the center line of County Road 249 to its intersection with the center line of State Route 18; thence westerly along the center line of State Route 18 to its intersection with the center line of County Road 321; thence southerly along the center line of County Road 321 to its intersection with the center line of County Road 47; thence southeasterly along the center line of County Road 47 to its intersection with the center line of State Road 30; thence northerly along the center line of State Road 30 to its intersection with the boundary line between Georgetown Hundred and Indian River Hundred; thence easterly along the center line of the boundary line between Georgetown Hundred and Indian

River Hundred to its intersection with the center line of State Road 5 where it intersects the westerly branch of Love Creek; thence in an easterly and southerly direction along the center line of the westerly branch of Love Creek to its intersection with the center line of Love Creek; thence southerly along the center line of Love Creek to its intersection with the center line of State Road 24; thence northeasterly along the center line of State Road 24 to its intersection with the center line of State Road 14; thence northerly along the center line of State Road 14 to its intersection with the center line of County Road 268; thence northeasterly along the center line of County Road 268 to its intersection with the center line of County Road 269; thence in an easterly direction along the center line of County Road 269 (extended) to its intersection with the center line of the boundary between Delaware and New Jersey; thence in a northerly direction along the center of the boundary between Delaware and New Jersey to its intersection with the center line of the boundary between Kent and Sussex Counties (extended); thence in a westerly direction along the center line of the boundary between Kent and Sussex Counties (extended) to the point and place of beginning.

**4th Councilmanic District**

The 4th Councilmanic District shall comprise: Beginning at the intersection of the center line of the boundary between Delaware and New Jersey with the center line of County Road 269 (extended); thence westerly along the center line of County Road 269 (extended) to its intersection with the center line of County Road 268 and County Road 269; thence southwesterly along the center line of County Road 268 to its intersection with the center line of State Road 14; thence southerly along the center line of State Road 14 to its intersection with the center line of State Road 24; thence southwesterly along the center line of State Road 24 to its intersection with the center line of Love Creek; thence northerly along the center line of Love Creek to its intersection with the center line of the westerly branch of Love Creek; thence westerly and northerly along the center line of the westerly branch of Love Creek to its intersection with the center line of the boundary line between Georgetown Hundred and Indian River Hundred at State Route 5; thence southwesterly along the center line of the boundary line between Georgetown Hundred and Indian River Hundred to its intersection with the center line of State Route 30; thence southerly along the center line of State Route 30 to its intersection with the center line of Deep Branch; thence southwesterly along the center line of Deep Branch to its intersection with the center line of Morris Mill Pond; thence southerly along the center line of Morris Mill Pond to its intersection with the center line of Cow Bridge Branch; thence southerly along the center line of Cow Bridge Branch to its intersection with the center line of Morris Mill Pond; thence southerly along the center line of Morris Mill Pond to its intersection with the center line of Indian River; thence southeasterly along the center line of Indian River to its intersection with the center line of Indian River Bay at its mouth opposite Oak Orchard; thence southeasterly from said point to the intersection of the center line of Pepper Creek at its mouth; thence southwesterly along the center line of Pepper Creek to its intersection with the center line of Vines Creek at its mouth; thence southerly along the center line of Vines Creek to its intersection with the center line of State Route 26; thence westerly along the center line of State Route 26 to its intersection with the line of County Road 340; thence southerly along the center line of County Road 340 to its intersection with the center line of County Road 382; thence northwesterly along the center line of County Road 382 to its intersection with the center line of County Road 355; thence southwesterly along the center line of County Road 355 to its intersection with the center line of County Road 356; thence northwesterly along the center line of County Road 356 and County Road 356 (extended) to its intersection with the center line of County Road 406; thence southwesterly along the center line of County Road 406 to its intersection with the center line of County Road 402; thence westerly along the center line of County Road 402 to its intersection with the center line of State Route 26; thence westerly along the center line of State Route 26 to its intersection with the center line of County Road 413A; thence southerly along the center line of County Road 413A to its intersection with the center line of the easterly branch of Pocomoke River; thence easterly and southerly along the easterly branch of Pocomoke River to its intersection with the center line of the Pocomoke River; thence southerly along the center line of the Pocomoke River to its intersection with the center line of County Road 417; thence easterly along the center line of County Road 417 to its intersection with the center line of County Road 60; thence southwesterly along the center line of County Road 60 to its intersection with the center line of County Road 418; thence southeasterly and southerly along the center line of County Road 418 to its intersection with the Delaware-Maryland boundary; thence easterly along the center line of the Delaware-Maryland boundary to its intersection with the border between Delaware and New Jersey; thence northerly along the center line of the boundary between Delaware and New Jersey to the point and place of beginning.

**5th Councilmanic District**

The 5th Councilmanic District shall comprise: All those portions of Sussex County not included in Councilmanic Districts nos. 1 to 4 inclusive.

(v) *Redistricting.* — (1) In the event that by a redistricting of the senatorial or representative districts of Sussex County, the numbers of representative districts shall be reduced in number from 6 to 5, then it shall be the mandatory duty of the county government to redistrict Sussex County into 5 councilmanic districts for the election of the county government and the boundaries of each of said districts shall coincide with the boundaries of 1 of the said representative districts. To accomplish the redistricting, the county government, within 3 months after the reapportionment of the Sussex County representative districts, shall appoint 5 qualified voters of the County who shall comprise the redistricting commissioners. The commissioners shall be appointed, 1 from each of the 5 representative districts, as they would have been reapportioned, and, they shall not be employed by the County in any other capacity. No more than 3 of the members shall be affiliated with the same political party. It shall be the duty of the redistricting committee to submit to the county government a report, which shall set forth the boundaries of each councilmanic district, which shall coincide with the boundaries of a respective representative district, and shall assign to each a number from 1 to 5, and a map thereof. The report shall be in the form of a proposed

ordinance. Once filed with the Clerk of the county government, the report shall be treated as an ordinance introduced by a member of the county government, to be considered by them as other proposed ordinances, provided that a map and a description of the proposed districts shall be published in addition to the other requirements of publication connected with enacting ordinances.

(2) The county government shall adopt a redistricting ordinance within 60 days after the report of the redistricting commission has been filed with the Clerk of the county government.

(w) *Election of county government officials.* — (1) In order to stagger the terms of the elected officials, councilmanic districts shall be divided into 2 categories: the first category shall consist of Districts 1, 2, and 3, and the second category shall consist of Districts 4 and 5.

(2) Such officials from Districts 1, 2, and 3 shall be elected in the general election held the first Tuesday, in November, 1972, for terms of 4 years each. Subsequently, the officials from these Districts shall be elected every 4 years to serve 4-year terms.

(3) Such officials from Districts 4 and 5 shall be elected in the general election held the first Tuesday in November, 1974, for terms of 4 years. Subsequently, the officials from these Districts shall be elected every 4 years to serve 4-year terms.

(4) All citizens qualified by the Constitution and laws of the State of Delaware to vote in the County and who satisfy the requirements for registration prescribed by law shall be qualified to vote for members of the county government.

(5) Except as otherwise provided by this chapter, the provisions of the election laws of this State shall apply to elections held under this chapter. All elections provided for by this chapter shall be conducted by the election authorities authorized to hold elections under the election laws of this State.

(6) The nomination of persons to be candidates in the general elections for county officials shall be governed by the election laws of this State.

(x) *Creation of departments and agencies.* — The county government may by ordinance establish county departments, offices or agencies in addition to those created by this title and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this title to a particular department, office or agency may be discontinued or, unless this title specifically so provides, assigned to any other.

(9 Del. C. 1953, § 7002; 57 Del. Laws, c. 762, § 1; 58 Del. Laws, c. 348; 61 Del. Laws, c. 444, § 1; 64 Del. Laws, c. 69, § 1; 64 Del. Laws, c. 70, § 1; 65 Del. Laws, c. 55, § 1; 66 Del. Laws, c. 69, § 1; 66 Del. Laws, c. 320, § 13; 67 Del. Laws, c. 382, §§ 1-3; 69 Del. Laws, c. 130, § 1; 70 Del. Laws, c. 186, § 1; 82 Del. Laws, c. 272, § 1; 84 Del. Laws, c. 42, § 1.)

## § 7003. County Administrator.

(a) *Appointment; qualifications; compensation.* — The county government shall appoint a County Administrator by the affirmative vote of a majority of the members of the county government, for a term, not exceeding 4 years and fix his or her compensation. The County Administrator shall be appointed solely on the basis of his or her executive and administrative qualifications. At the time of his or her contractual starting date he or she shall be a resident of Sussex County, and, during his or her tenure of office, he or she shall at all times reside within Sussex County.

(b) *Removal from office.* — The county government may remove the County Administrator from office before the expiration of his or her term, but only in accordance with the following procedures:

(1) By affirmative vote of a majority of all the members of the county government upon adoption of a preliminary resolution which shall state the reason for the removal. A copy of the resolution shall be delivered promptly to the County Administrator;

(2) Within 10 days after a copy of the resolution is delivered to the County Administrator, he or she may file with the county government a written request for a public hearing. This hearing shall be held at a special county government meeting not later than 30 days after the request is filed. The County Administrator may file with the county government a written reply not later than 5 days prior to the hearing. The County Administrator shall be permitted to appear in person at the hearing in lieu of a full written reply to the charges made, and present his or her case with witnesses as the circumstances may require;

(3) The county government may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all the members at any time after 10 days from the date when a copy of the preliminary resolution was delivered to the Administrator, if Administrator has not requested a hearing.

(c) *Acting county administrator.* — The county government may designate a qualified acting county administrative officer to exercise the powers and perform the duties of County Administrator during the latter's absence or disability.

(d) *Powers and duties.* — The County Administrator shall be the chief administrative officer of the County. The County Administrator shall attend the meetings of the county government, and be responsible to the county government for the proper administration of all the affairs of the County which the county government has authority to control.

Under the direction of the county government, the County Administrator shall have the following powers and duties, except as otherwise provided by this chapter, law or governing personnel regulations:

(1) He or she shall appoint and, when he or she deems it necessary, suspend or remove any county employees and appointive administrative officers with the exception of the Director of Finance. He or she may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;

(2) The County Administrator shall direct and supervise the administration of all departments, offices and agencies of the County;

(3) The County Administrator shall have the right to take part in discussion at all county government meetings but may not vote;

(4) The County Administrator shall see that all laws, provisions of this chapter, and acts of the county government, subject to enforcement by the County Administrator or by officers subject to his or her direction and supervision, are faithfully executed;

(5) The County Administrator shall prepare and submit a proposed annual budget and capital program to the county government, with his or her recommendations and shall execute the budget as finally adopted;

(6) The County Administrator shall make reports, at least once monthly, to the county government in regard to matters of administration, and keep the county government fully advised as to the financial condition of the county government;

(7) The County Administrator shall submit to the county government and make available to the public a complete report on the finances and administrative activities of the County within 60 days after the end of each fiscal year;

(8) The County Administrator shall familiarize himself or herself in detail with the affairs of all officers, departments, boards, and agencies and make recommendations and reports to the county government at such times as the government may direct. The County Administrator may order an audit of any office or agency at any time by the independent auditor engaged by the county government;

(9) The County Administrator shall perform such other duties as are specified in this chapter or as may be required by the county government.

(9 Del. C. 1953, § 7003; 57 Del. Laws, c. 762, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 52, §§ 1, 2.)

## § 7004. Department of Finance.

(a) *Department of Finance, general.* — There shall be a Department of Finance under the direction of the County Administrator which shall be responsible for the administration of the budgeting, accounting, purchasing, treasury and other financial affairs of Sussex County.

(b) *Director of Finance.* — The Director of Finance shall be the head of the Department of Finance. The county government shall appoint the Director of Finance and fix the Director's compensation.

(c) *Functions.* — The Department of Finance, headed by the Director of Finance, shall perform the following functions:

(1) Assess all property subject to taxation by the County and maintain appropriate records;

(2) Prepare tax rolls and bills, including those required by any municipality or school district or special district lying within or partially within the County of taxes so authorized by law or such districts;

(3) Collect all taxes, license and permit fees, and other moneys due to or receivable by the County, or any of its offices, departments, or boards; provided that the Director of Finance may, by rule, authorize the receipt of moneys directly by offices, departments, boards or agencies, or may assign employees of departments to make such collections;

(4) Collect when directed by or authorized by law, all taxes, license and permit fees, and other moneys which may be receivable by the State, or by other public office, department, or board not subject to the provisions of this title;

(5) Institute proceedings for the sale of taxable property upon which taxes are not paid within the period prescribed by law;

(6) Prepare necessary assessment rolls for all assessable public improvements, issue appropriate bills, assist in the issuance and serving of indebtedness in connection with such assessable improvements, and be responsible for the collection, custody, and payment of all moneys in connection therewith;

(7) Issue receipts for moneys collected by the Department;

(8) Maintain the treasury of the County, and deposit all moneys belonging thereto or in the custody thereof in any depository banks to the credit of the County;

(9) Invest idle funds not reasonably required to be maintained on a demand basis in obligations of the United States or such other obligations or in such manner as recommended by the County Administrator and authorized by the county government. Investment of county funds shall be in accordance with the provisions of general state law and of the ordinances of the county government governing such investments. All interest on investments and moneys so earned from these idle funds shall accrue only to the benefit of the County of Sussex;

(10) Administer the retirement systems of the County, after having taken into account the advice of the County Retirement Advisory Board. An annual report with full accountability of all invested funds, if any, shall be made to members of such pension or retirement systems;

(11) Assist in the issuance of all general and special bonds or other evidence of indebtedness of the County and service such debt in accordance with the law and terms of indenture relating thereto;

(12) Make disbursements and payments of claims which it finds to be in the correct amount and justly due only in accordance with prior authorization adopted under the terms of this title or other state law;

(13) Prepare payrolls and supervise the preparation of related documents;

(14) Prepare and issue all checks signed by the President of the county government, or the County Administrator if so designated by the county government, and countersigned by the Director of Finance;

(15) Keep accurate and complete accounts of all receipts and disbursements;

(16) Provide information pertaining to the financial affairs of the County;

(17) Provide for the procurement of all materials, supplies, equipment, and contractual services, except that the Director of Finance, with the approval of the County Administrator, may designate other offices or departments to perform such portions of these functions as the Director of Finance may from time to time deem proper.

In the procurement of services or supplies,the Director of Finance shall follow contracting thresholds set forth by Delaware's Contracting and Purchasing Advisory Council pursuant to § 6913(d)(4) of Title 29 or otherwise set forth by state law. For competitive sealed bidding, the Director of Finance shall follow the advertising and bid opening requirements of § 6923(b) and (c) of Title 29. If the Director of Finance deems it proper and necessary to protect the interest of the County, the Director of Finance shall recommend to the County Administrator what future action should be taken should all bids be refused. The Director of Finance may require of such bidder or bidders security for the faithful performance of the contract.

(18) Have authority to make transfers of supplies, materials or equipment between offices and departments; sell any surplus supplies, materials or equipment and to make such other sales as may be authorized by the county government; establish suitable specifications or standards for all supplies, materials and equipment in accordance with approved purchasing procedures; inspect all deliveries to determine compliance with such specifications and standards; maintain and supervise warehouses and storehouses for equipment, materials and supplies; furnish supplies, materials, equipment or contractual services to any department or office only upon receipt of a properly approved requisition;

(19) The Director of Finance shall maintain a correct inventory of all fixed assets of the County;

(20) The Director of Finance shall perform such other duties as may be imposed on the Director by the County Administrator, by state law or by direction of the county government;

(21) Acquire real or immovable property upon the recommendation of the office, department, board or commission to which appropriation has been made for such acquisition, and dispose of such property upon the recommendation of the office, department, board or commission when authorized by ordinance of the county government;

(22) Prepare and execute agreements for the lease and/or rental of real or immovable property upon the recommendation of the office, department, board or commission if approved by the County Administrator, the County Attorney, and with the direction of the county government.

(d) *Sworn information.* — The Director of Finance may require from any officer or employee of the County, or any claimant, such sworn information as may be necessary for the proper performance of the functions of the Department.

(e) *Board of Assessment Review.* —

The Sussex County Council shall:

(1) Establish a Board of Assessment Review that consists of 5 regular members and 3 alternate members. The term and residency requirement of each member shall be determined by Sussex County Council. Sussex County Council shall provide compensation for members in amounts established by County Council in the county annual operating budget ordinance. Sussex County Council shall provide for the filling of vacancies on the Board of Assessment Review.

(2) Authorize the appointment of referees to hear appeals of property assessments. The Director of Finance shall appoint, with the advice and consent of the County Council, such referees as are authorized. Referees appointed under this section must possess sufficient qualifications concerning the valuation of real property as determined by County Council.

(3) Appeals may be heard by panels of 3 or more members of the Board or by the referees individually when the referees are so authorized pursuant to paragraph (e)(2) of this section. The panel or the referee shall submit a recommendation to the Board which shall determine whether the assessment is correct based upon the record of the appeal hearing and the recommendation of the panel or the referee.

(f) *Duties of Board of Assessment Review.* — The Board shall:

(1) Hear appeals from any property owner who alleges that owner of the property has been improperly assessed for purposes of taxation;

(2) Following the hearing of any property owner, and, in the light of the facts produced at such hearing, the Board shall determine whether the assessment is correct. Should the Board find that the assessment is incorrect, the Board shall order the Director of Finance to correct the assessment and the Director shall thereupon correct the assessment to the adjusted amount established by the Board;

(3) Review the methods by which the Director of Finance has established the assessments and the results thereof as reflected by the assessment roll. Should the Board find that the procedures used by the Director of Finance require improvement in order to make more equitable and effective the assessment procedure, the Board shall make such recommendations as it deems proper to the County Administrator and file a copy thereof with the Clerk of the county government.

(4) Perform all functions as established by Sussex County Council through ordinance and as otherwise provided in this title.

(g) *Compensation of Board of Assessment Review.* — The members of the Board shall receive such per diem compensation for days that the Board is in session as the county government shall determine.

(h) *Judicial review.* — Nothing herein shall be construed as limiting the right of a property owner to appeal to the courts in connection with the assessment of such property owner's property for taxation as provided by law.

(i) *General provisions relating to assessment, levy, billing, and collection of taxes.* — It is the intent of this chapter that in Sussex County, the Department of Finance shall perform all of the functions heretofore assigned to the Board of Assessment, the Receiver of Taxes and the County Treasurer, the Comptroller, and the Collector of Delinquent Taxes under the Delaware Law, except for the functions herein specifically assigned to the Board of Assessment Review.

(j) *Assessment of property.* —

In the performance of the functions relating to the assessment of property, the Department of Finance shall exercise the assessment functions heretofore assigned to the Board of Assessment. To this end, not later than February 15 of each year, the Department of Finance shall prepare and present to the Board of Assessment Review a copy of the assessment roll for the year. The Department shall determine the form of the assessment roll and shall not be bound by provisions of law heretofore in effect as to form. From March 1 through May 31 or until all appeals have been heard and acted upon during a year of reassessment, the Board of Assessment Review or its representatives shall hear appeals from property owners who believe that their property is improperly assessed, and make determinations of corrections or additions to the assessment roll that may be necessary. Assessment appeals shall be scheduled by contacting the Sussex County Assessment Division for an appointment beginning on March 1 of each year.

Not later than June of each year, the Board of Assessment Review shall certify to the Department of Finance a true and correct assessment roll for the year. Not later than July of each year, the Director of Finance shall certify to the county government the total value of all property in the County and the total value of all property which has been assessed and is subject to taxation.

The Department of Finance shall determine by rule, the form, number of copies, and other details concerning the keeping of records relating to assessment of real property and improvements thereupon. The Department of Finance shall develop a suitable system for the identification of all real property within the County, both that which is subject to taxation and that which is exempt from taxation. Such system shall be in a form which readily permits the subdivision of property or the reassembly of property without loss of control thereof for purposes of assessment.

(k) *Obligations and rights of property owners.* — The adoption of this chapter shall in no manner relieve any property owner of any obligation theretofore imposed upon that property owner with respect to the rendition of assessment of any property or the payment of any tax, nor shall it in any manner increase the responsibilities of such property owner, nor deny the property owner of any right heretofore possessed except to the extent specifically provided in this chapter.

(*l*) *Collection of taxes.* — The Department of Finance shall be responsible for the collection of all taxes, whether current or delinquent, and to that end shall perform all of the responsibilities with respect to collection and enforcement of collection vested prior to the enactment of this chapter in the Receiver of Taxes and County Treasurer. To this end, the Department of Finance shall be entitled to the use of and shall be responsible for the application of all processes of law available prior to the enactment of this chapter to the Receiver of Taxes and County Treasurer, provided that the Department shall not be required to make any routine reports to the county government concerning the collection of taxes other than a monthly statement in appropriate summary form and the annual report.

(m) *Records of tax delinquencies.* — The Department of Finance shall maintain a suitable record of the payment or nonpayment of taxes with respect to each parcel of real property in the County. Not later than 60 days after the close of each fiscal year, the Department shall prepare a summary of the outstanding taxes which have been levied and not collected for each of the preceding 2 years or for such longer period as the county government shall prescribe. Such summary shall be fully supported by detailed records of delinquent taxes.

(n) *Collection of taxes other than those upon real estate.* — The Department of Finance shall perform all responsibilities heretofore assigned to any office, department or board of Sussex County in the assessment and collection and enforcement of capitation taxes and any other taxes heretofore levied in Sussex County.

(9 Del. C. 1953, § 7004; 57 Del. Laws, c. 762, § 1; 59 Del. Laws, c. 260, § 2; 61 Del. Laws, c. 351, § 1; 65 Del. Laws, c. 54, § 1; 69 Del. Laws, c. 276, § 1; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 238, § 2; 77 Del. Laws, c. 421, § 1; 78 Del. Laws, c. 302, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 105, § 2; 84 Del. Laws, c. 412, § 6.)

## § 7005. Department of Law.

(a) *Functions.* — There shall be a Department of Law, headed by a County Attorney which shall perform the following functions:

(1) Provide legal advice to the county government, County Administrator, and all county departments, boards, offices and agencies;

(2) Represent the County in all legal proceedings;

(3) Perform any other duties prescribed by the title or by ordinance of the county government.

(b) *Appointment.* — The County Attorney shall be appointed by the county government. The County Attorney shall serve at the pleasure of the county government.

(c) *Assistant County Attorneys.* — The county government shall appoint such Assistant County Attorneys as may be necessary from time to time. The Assistant County Attorneys shall serve at the pleasure of the county government.

(d) *Compensation.* — The annual salary of the County Attorney and each Assistant County Attorney shall be determined by the county government.

(e) *Other employees.* — The county government may provide for such employees as may be necessary to perform the functions required by this title. Such employees shall serve at the pleasure of the County Attorney.

(9 Del. C. 1953, § 7005; 57 Del. Laws, c. 762, § 1.)

## § 7006. Personnel system.

(a) *Personnel system.* — The County Administrator is responsible for administering the personnel system of Sussex County.

All appointments and promotions of county officers and employees under the direction of the County Administrator shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(b) *Personnel Board.* — There shall be a Personnel Board consisting of 3 members appointed by the county government for terms of 3 years from among the qualified voters of the County. Members of the Board shall hold no other county office. The County Administrator shall provide necessary staff assistance for the Personnel Board.

(c) *Personnel rules.* — The County Administrator shall prepare personnel rules and amendments thereto. The County Administrator shall refer such proposed rules to the Personnel Board which shall report to the Administrator its recommendations thereon. When approved by the Administrator, the rules shall be proposed to the county government, and the county government may by ordinance adopt them with or without amendment. These rules shall provide for:

(1) The classification of all county positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position, whenever warranted by changed circumstances;

(2) A pay plan for all county positions;

(3) Methods for determining the merit and fitness of candidates for appointment or promotion;

(4) The policies and procedures regulating reduction in force and removal of employees;

(5) The hours of work, attendance regulations and provisions for sick and vacation leave;

(6) The policies and procedures governing persons holding provisional appointments;

(7) The policies and procedures governing relationships with employee organizations;

(8) Grievance procedures, including procedures for the hearing of grievances by the Personnel Board, which may render advisory opinions based on its findings to the County Administrator with a copy to the aggrieved employee; and

(9) Other practices and procedures necessary to the administration of the county personnel system.

Employment or dismissal of county employees shall be subject to the approval of the county government, in its discretion.

(9 Del. C. 1953, § 7006; 57 Del. Laws, c. 762, § 1; 70 Del. Laws, c. 186, § 1.)

## § 7007. County Advisory Retirement Board.

There shall be an Advisory Retirement Board for the County which shall consist of 5 members. Three of the members shall be appointed by the county government for terms of 4 years and 2 of the members shall be elected by the members of the county employees pension plan for terms of 4 years. The members of the Board shall receive such compensation as fixed by the County Council of Sussex County.

The Advisory Retirement Board shall:

(1) Review each application for benefits under the retirement system and render an opinion thereon to the Director of Finance as to whether the applicant is qualified for the benefits sought in the application;

(2) From time to time, make such recommendations to the county government regarding proposed changes in the retirement system and the administration of provisions of the retirement system as the Board shall deem appropriate.

(9 Del. C. 1953, § 7007; 57 Del. Laws, c. 762, § 1; 65 Del. Laws, c. 57, § 1.)

## § 7008. Pension program for Sussex County employees.

(a) The county government shall, by ordinance, establish a funded pension program for all Sussex County employees, upon such terms and conditions as it shall deem necessary and best.

(b) The county government shall take no action hereunder which will deny or reduce benefits to former employees and retired employees who have qualified for benefits under any prior authorized pension program.

(63 Del. Laws, c. 42, § 2.)

# Part IV
# Sussex County

## Chapter 71
## Sussex County Property Maintenance

(82 Del. Laws, c. 222, § 1.)

### § 7101. Definitions.

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

(1) "Administrative tribunal" means a body appointed by the Sussex County Council for the purpose of hearing violations of any ordinance, rule, or regulation enacted pursuant to this chapter.

(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) "Person responsible" means the owner and any other person or persons who have control over the property or are responsible for the violation.

(4) "Property" means a lot, plot, or parcel of land, including any structures thereon.

(5) "Structure" means a manmade object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

(6) "Sussex County Council" means the Council for Sussex County.

(82 Del. Laws, c. 222, § 1.)

### § 7102. Promulgation of property maintenance ordinances, rules, and regulations.

The Sussex County Council, in order to provide for the health, safety, and welfare of the citizens of Sussex County, may promulgate ordinances, rules, and regulations regulating and governing the condition and maintenance of all property, structures, and buildings to eliminate or prevent unsafe, unhealthy, unsanitary, or substandard conditions. Said ordinances, rules, or regulations may 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.

(82 Del. Laws, c. 222, § 1.)

### § 7103. Administration and enforcement.

The Sussex County Council, or its designee, shall have the power and authority to administer and enforce all property maintenance ordinances, rules, and regulations as promulgated by the Sussex County Council except as otherwise provided for by this chapter or by ordinance, rule, or regulation adopted by Sussex County Council.

(82 Del. Laws, c. 222, § 1.)

### § 7104. Removal of weeds, grasses, refuse, rubbish, trash, or other waste material.

In accordance with § 7102 of this title, the Sussex County Council may promulgate ordinances, rules, and regulations regulating and governing excessive growth of weeds or grass, or the placement or accumulation of refuse, rubbish, trash, or other waste material upon property to prohibit the creation of a nuisance detrimental to adjoining properties or the health or safety of other persons.

(82 Del. Laws, c. 222, § 1.)

### § 7105. Fees.

The Sussex County Council may adopt ordinances, rules, and regulations providing for the charge of reasonable fees for the administration and enforcement of the property maintenance ordinances, rules, and regulations, including fees for the inspection and re-inspection of properties for which a notice of violation has been duly issued.

(82 Del. Laws, c. 222, § 1.)

### § 7106. Violation of property maintenance ordinances, rules, and regulations or chapter; notices and orders.

(a) For the purpose of enforcing compliance with the provisions of the property maintenance ordinances, rules, and regulations, and removing illegal, unhealthy, or unsafe conditions, the Sussex County Council, or its designee, may issue such rules, notices, or orders as may be necessary.

(b) Whenever the Sussex County Council, or its designee, is satisfied that a person responsible has committed an offense against the property maintenance ordinances, rules, or regulations, or other provision of the Sussex County Code that constitutes a threat to the public

health, safety, or welfare, or of an order of the Sussex County Council, or its designee, the Sussex County Council, or its designee, 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 ordinances, rules, or regulations, as adopted by the Sussex County Council.

(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 Sussex County Council, or its designee, determines that such violation cannot be cured within such time and clearly delineates additional time for compliance.

(82 Del. Laws, c. 222, § 1.)

## § 7107. Abatement; creation of tax lien.

(a) If after due notice, either actual or constructive, is given by the Sussex County Council, or its designee, 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 Sussex County Council, or its designee, may cause such violation to be removed, corrected, abated, or otherwise made safe and sanitary. The Sussex County Council, or its designee, 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 property maintenance ordinances, rules, and regulations or other provisions of the Sussex 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 Sussex County Council, or its designee, 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 Sussex County Council, or its designee, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes, and paid to Sussex County, when collected.

(c) Any unpaid fine or civil penalty associated with violation of the property maintenance ordinances, rules, or regulations, or any other provision of the Sussex 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 nonappealable, 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 Sussex County, when collected.

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

(82 Del. Laws, c. 222, § 1.)

## § 7108. Penalties.

The person responsible for a building, structure, or premises, where anything is in violation of this chapter or the ordinances, rules, or regulations as promulgated by the Sussex County Council, or in violation of any permit, certificate, detailed statement or plan accepted or approved by the Sussex County Council, or its designee, or in violation of an order of the Sussex County Council, or its designee, may be fined in accordance with a schedule of fees and penalties to be established by the Sussex County Council. 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.

(82 Del. Laws, c. 222, § 1.)

## § 7109. Additional remedies.

The imposition of the penalties or enforcement prescribed in this chapter or by the ordinances, rules, or regulations as promulgated by the Sussex County Council shall not preclude the Attorney General, county attorney, Sussex County Council's designee or code enforcement constable from instituting appropriate actions or proceedings to prevent, enjoin, or abate any continuing violation of this chapter.

(82 Del. Laws, c. 222, § 1.)

## § 7110. Existing ordinances, rules, and regulations.

To the extent the Sussex County Council may have enacted or adopted ordinances, rules, and regulations governing property maintenance prior to the adoption of this chapter, those ordinances, rules, and regulations may be enforced in accordance with this chapter.

(82 Del. Laws, c. 222, § 1.)

## § 7111. Exceptions.

This chapter shall not apply to:

(1) Properties, buildings, or structures located within any incorporated city or town in Sussex County unless the responsibility for the local code enforcement has been duly transferred to Sussex 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 § 6902(b) of this title.

(4) State parks and wildlife areas.

(82 Del. Laws, c. 222, § 1.)

# Part V
# County Taxes
## Chapter 80
## County Tax Levy

### § 8001. Budget of estimated expenditures.

(a) The governing body of Kent County shall, after due inquiry and investigation, prepare and adopt a budget or estimate of the amount of money which will be required by the County during the next fiscal year to discharge demands upon the County, both those which have accrued and those for which it is deemed expedient to make provision.

(b) The government of New Castle County shall prepare and adopt the budget as provided in Chapter 11 of this title.

(c) The government of Sussex County shall prepare and adopt the budget as provided for in Chapter 70 of this title.

(d) In New Castle County, the budget shall be adopted not later than June 1 in each year, in Kent County, not later than June 30 in each year, and in Sussex County, not later than July 1 in each year.

(Code 1852, § 83; Code 1915, §§ 1071, 1071A; 28 Del. Laws, c. 76, § 14; 31 Del. Laws, c. 13, § 22; Code 1935, §§ 1155, 1236; 47 Del. Laws, c. 89, § 1; 48 Del. Laws, c. 124, § 1; 9 Del. C. 1953, § 8001; 55 Del. Laws, c. 85, § 20A; 57 Del. Laws, c. 762, § 13A; 66 Del. Laws, c. 69, § 2; 67 Del. Laws, c. 169, § 1.)

### § 8002. Tax rate [For application of this section, see 85 Del. Laws, c. 132, § 5].

(a) After the budget has been adopted, the respective county governing bodies shall fix their county tax rates based upon the most recent assessment made by the county governing bodies as follows:

(1) The county tax rate shall be stated in terms of a certain rate on every $100 of assessed evaluation.

(2) Subject to the limitations of subsection (b) of this section, the county tax rate shall be such as will produce sufficient tax revenues to meet the budget requirement of the county for all purposes other than those that are not to be paid for out of the general county tax revenues.

(3) The county tax rate shall not include special assessments, tax specially levied to pay principal of and interest on bonds, or taxes levied for the benefit of local districts established in accordance with statutes authorizing such special taxation.

(4) a. A county governing body may adopt different tax rates for real property based on different real property classifications adopted by the county governing body.

b. Tax rates established under paragraph (a)(4)a. of this section must be uniform for all real property in the same classification, as required under § 1 of Article VIII of the Delaware Constitution.

(5) For purposes of this chapter, “county tax rate” means a single tax rate adopted for all classes of real property or a tax rate adopted under paragraph (a)(4) of this section.

(b) The county tax rate for Kent County shall not exceed the sum of $0.50 on each $100 of assessed evaluation.

(c) When any total reassessment of taxable properties within a county of this State shall have become effective, the county tax rate levied for the immediately ensuing fiscal year shall not be such as to yield county property tax revenues greater than 15% in excess of the total of the county property taxes imposed for the fiscal year immediately preceding the fiscal year in which such reassessment shall have become effective. Any initial assessment made on new construction shall not be taken into account in determining such limitation.

(d) When any total reassessment of taxable properties within a county of this State shall have become effective, a county tax rate shall be computed so as to provide the same tax revenue as was levied during the prior fiscal year. That rate shall be known as the “rolled-back rate.”

(e) The ordinance establishing a property tax rate upon total reassessment shall state the percent, if any, by which the county tax rate to be levied exceeds the rolled-back rate computed pursuant to subsection (d) of this section, which shall be characterized as the percentage increase in property taxes adopted by the governing body. Within 15 days of the meeting at which the ordinance shall be considered by the governing body, the county shall advertise, in a newspaper of general circulation in the county, said percentage increase in the county tax rate.

(Code 1852, § 83; Code 1915, §§ 1071, 1071A; 28 Del. Laws, c. 76, § 14; 31 Del. Laws, c. 13, § 22; 40 Del. Laws, c. 134, § 1; Code 1935, §§ 1155, 1236; 47 Del. Laws, c. 89, § 1; 47 Del. Laws, c. 223, § 1; 48 Del. Laws, c. 124, § 1; 9 Del. C. 1953, § 8002; 49 Del. Laws, c. 81; 55 Del. Laws, c. 57; 55 Del. Laws, c. 85, §§ 20B, 20D, 20F; 55 Del. Laws, c. 124; 57 Del. Laws, c. 762, § 13A; 58 Del. Laws, c. 427; 64 Del. Laws, c. 363, § 2; 85 Del. Laws, c. 132, § 1.)

### § 8003. Time and method of levying county tax [For application of this section, see 85 Del. Laws, c. 132, § 5].

(a) After the respective county governing body has fixed the county tax rate, it shall levy the county tax for the next fiscal year according to the county tax rate applied to the most recent assessment list in the county.

(b) The county governing bodies shall levy the county tax not later than the following dates: In New Castle County, June 1; in Kent County, June 30; and in Sussex County, July 1.

(Code 1852, § 83; Code 1915, §§ 1071-1071B; 28 Del. Laws, c. 76, §§ 14, 15; 31 Del. Laws, c. 13, §§ 22, 23; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1155, 1236, 1239, 1246; 47 Del. Laws, c. 89, § 1; 48 Del. Laws, c. 124, § 1; 9 Del. C. 1953, § 8003; 55 Del. Laws, c. 85, §§ 20B-20D; 57 Del. Laws, c. 762, § 13E; 66 Del. Laws, c. 69, § 3; 85 Del. Laws, c. 132, § 2.)

## § 8004. Duplicate assessment lists in Kent County.

Promptly after levying the county tax, the governing body of Kent County shall deliver to the Receiver of Taxes and County Treasurer, for his or her use in collecting the taxes, the duplicate assessment list as prepared and furnished to the county government by the Board of Assessment.

(Code 1915, § 1071B; 28 Del. Laws, c. 76, § 15; 31 Del. Laws, c. 13, § 23; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1239, 1343, 1346; 46 Del. Laws, c. 134, § 1; 9 Del. C. 1953, § 8004; 55 Del. Laws, c. 85, § 20E; 57 Del. Laws, c. 762, §§ 13F, 13G; 70 Del. Laws, c. 186, § 1.)

## § 8005. Tax collection warrants; form [For application of this section, see 85 Del. Laws, c. 132, § 5].

(a) (1) Subject to paragraph (a)(2) of this section, at the time of delivery of the duplicate assessment lists to the respective receivers of taxes and county treasurers, there shall be attached to each list a tax collection warrant which shall be executed in the manner and substantially in the form prescribed by subsections (b) and (c) of this section.

(2) If a county governing body has adopted a tax rate authorized under § 8002(a)(4) of this title, the tax collection warrant form under subsection (c) of this section may be changed to reflect the different tax rate for each class of real property.

(b) Each warrant shall be dated as of the date on which the taxes referred to therein were levied and shall be signed by at least 2 elected officials of the county governing body and sealed with the seal of and attested by the clerk of the peace.

(c) The warrants shall be substantially in the following form:

State of Delaware

ss.

.....County

To the Receiver of Taxes and County Treasurer of ..... County, greeting:

We command you that you collect from the persons named in the duplicate assessment list annexed hereto, for their taxes payable to ..... County for the year beginning July first next, ..... percent as a rate upon every one hundred dollars on the amount of their respective assessments; and if any person named in the annexed duplicate assessment list shall not pay the tax after you have demanded payment, we command you in such case that you collect the tax, or the part thereof remaining unpaid, with lawful costs, in the manner prescribed by law. And we further command you that you pay the amount which, according to this warrant and the annexed duplicate assessment list you are required to collect, in the manner and within the times appointed by law in this behalf. Hereof fail not at your peril.

Given at ..... by the order of ..... County, under the hands of us, members of said county governing body, the ..... day of ....., A.D., .....

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Seal of Office of the
Clerk of the Peace

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.....

.....

Commissioners

Attest: .....

Clerk of the Peace

(Code 1852, §§ 84, 85; Code 1915, §§ 1071B, 1251; 28 Del. Laws, c. 76, § 15; 31 Del. Laws, c. 13, § 23; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1239, 1343, 1346, 1470; 46 Del. Laws, c. 134, § 1; 46 Del. Laws, c. 138, § 1; 9 Del. C. 1953, § 8005; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 85 Del. Laws, c. 132, § 3.)

# Part V
# County Taxes
## Chapter 81
## Limitations Upon Taxing Power
## Subchapter I
## General Provisions

### § 8101. Property subject to county taxation [For application of this section, see 85 Del. Laws, c. 132, § 5].

(a) All real property situated in this State shall be liable to taxation and assessment for public purposes by the county in which the property is located, except as otherwise provided in this chapter.

(b) Real property shall consist of the following:

(1) Land;

(2) Buildings;

(3) Improvements; and

(4) Special betterments.

(c) Improvements shall mean annexations to land other than buildings which increase the market value of the land when used for general purposes permitted by law, or annexations to buildings which increase the market value of the buildings when used for general purposes permitted by law.

(d) The taxation and assessment of lands, buildings and improvements shall exclude the value of any annexation and other addition to lands other than buildings and the value of any annexation and other addition to buildings or improvements, to the extent its use is limited primarily to a particular trade, business, occupation, profession, industry or similarly restricted activity. Such annexation or other addition may be taxed and assessed as a special betterment, if included in the enumeration in subsection (e) of this section.

(e) Special betterments, whether or not also considered to be improvements, shall include and be limited to the following:

(1) Bridges, wharves or piers;

(2) Mains, pipes and tanks, used for conducting steam, heat, water, oil or gas, not used in a manufacturing, assembling, processing or refining operation;

(3) Railroad sidings, roads, walkways and parking areas;

(4) Fences and yard lighting;

(5) Storage tanks;

(6) Sewer systems including piping, separators, septic tanks and waste treatment systems; water systems, including cooling and drinking water lines, both above and below ground;

(7) Poles, towers, wires and cable, for distribution of electrical energy either above or below ground, not used in a manufacturing, assembling, processing or refining operation;

(8) Poles, wires, cable and conduit for distribution of telephone communication services either above or below ground; provided, however, that in no event shall the amount of tax imposed on communications providers that were paying tax on such property as of June 30, 2015, exceed the amount actually paid by such provider to each political subdivision in the fiscal year ending June 30, 2015;

(9) Fire protection systems, including all facilities which are components of the fire protection systems;

(10) Racetracks, stadiums and airports;

(11) Bank vaults and bank teller windows; and

(12) Outdoor motion picture theaters.

(f) The taxation and assessment of lands, buildings and improvements shall exclude the value of any lands, buildings, and improvements upon which are situated, or which are in active use as, compost bins, manure sheds, or other nutrient storage, disposal, or management structures or facilities pursuant to a nutrient management plan required pursuant to Chapter 22 of Title 3. In order to receive an exemption pursuant to this subsection, the taxpayer must notify the county of the existence of the qualifying land, buildings, or improvements and request the exemption.

(Code 1852, §§ 184-189, 1372-1381; 14 Del. Laws, c. 111; 14 Del. Laws, c. 357; 15 Del. Laws, c. 16; 15 Del. Laws, c. 424; 16 Del. Laws, c. 4; 16 Del. Laws, c. 125; 16 Del. Laws, c. 308, § 1; 16 Del. Laws, c. 552; 17 Del. Laws, c. 204, § 3; 17 Del. Laws, c. 207, § 101; 17 Del. Laws, c. 207, Schedule A; 17 Del. Laws, c. 425, § 1; 17 Del. Laws, c. 495, § 9; 17 Del. Laws, c. 599, § 1; 18 Del. Laws, c. 165, § 1; 18 Del. Laws, c. 241; 18 Del. Laws, c. 465, § 1; 18 Del. Laws, c. 546, § 1; 19 Del. Laws, c. 124; 19 Del. Laws, c. 734, § 3; 21 Del. Laws, c. 1; 21 Del. Laws, c. 239, § 2; 22 Del. Laws, c. 139; 22 Del. Laws, c. 366; 22 Del. Laws, c. 367; 22 Del. Laws, c. 368; 22 Del. Laws, c. 369; 22 Del. Laws, c. 411; 23 Del. Laws, c. 46; 23 Del. Laws, c. 47; 23 Del. Laws, c. 92, §§ 1, 14; 25 Del. Laws, c. 36; 25 Del. Laws, c. 37; 25 Del. Laws, c. 38; 25 Del. Laws, c. 39; 25 Del. Laws, c. 40; 26 Del. Laws, c. 37; 27 Del. Laws, c. 56; 27 Del. Laws, c. 101; Code 1915, § 1098; Code 1935, § 1258; 9 Del. C. 1953, § 8101; 60 Del. Laws, c. 194, § 1; 74 Del. Laws, c. 417, § 1; 80 Del. Laws, c. 140, § 1; 85 Del. Laws, c. 132, § 4.)

## § 8102. Transfers of real property subject to county taxation [For application of this section, see 81 Del. Laws, c. 384, § 3].

(a) Notwithstanding any statute to the contrary, the county government of each county shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by the county, upon the transfer of real property within the unincorporated areas of the county; provided however, that any realty transfer tax which is imposed by any county government shall not be greater than 1½ percent of the value of the real property as represented by the document transferring the property; and further provided, that the county government shall exempt from such taxation "first-time home buyers", as that term is defined in § 5401 of Title 30, up to at least the value of the property or $400,000 whichever is less and such county may by ordinance increase the exemption amount. Any revenues from a tax upon the transfer of real property derived from an ordinance hereinafter adopted by the government of Kent County pursuant to the provisions of this section shall first be dedicated for and applied to Kent County's cost component of the Statewide Paramedic Funding Program as is more particularly set forth in § 9814 of Title 16.

(b) The provisions of §§ 5401 and 5403 of Title 30 shall apply with respect to any realty transfer tax imposed by a county government pursuant to the authority granted in this section.

(c) Any funds realized by a county pursuant to this section shall be segregated from the county's general fund and the funds, and all interest thereon, shall be expended solely for the capital and operating costs of public safety services, economic development programs, public works services, capital projects and improvements, infrastructure projects and improvements, debt reduction, assessments of real property as provided for in § 8101 of this title, recreational amenities, workforce and affordable housing programs, and land preservation programs.

(67 Del. Laws, c. 415, § 3; 71 Del. Laws, c. 349, §§ 13, 14; 81 Del. Laws, c. 384, § 2; 83 Del. Laws, c. 223, § 1; 83 Del. Laws, c. 360, § 1; 84 Del. Laws, c. 60, § 1.)

## § 8103. Personal property.

No county or other political subdivision of the State shall levy, assess or collect any tax upon personal property, whether tangible or intangible.

(42 Del. Laws, c. 109, § 1; 42 Del. Laws, c. 110, § 1; 9 Del. C. 1953, § 8102; 60 Del. Laws, c. 194, § 2; 67 Del. Laws, c. 415, § 3.)

## § 8104. Placement of mobile homes subject to Sussex County taxation.

Notwithstanding any statute to the contrary, the Sussex County government shall have the power by ordinance to impose and collect a tax, to be paid by the applicant, upon the application for a permit for the placement of a mobile home within the unincorporated areas of the county; provided, however, that any tax upon the placement of a mobile home shall not be greater than 1 percent of the value of the mobile home as represented by the permit application; and further provided, that nothing herein shall limit or otherwise affect the power of the county to impose and collect by ordinance fees for placement permits for mobile homes; and further provided, that the county government shall by ordinance exempt from taxation mobile homes owned by those organizations contained in §§ 8105 and 8106 of this title; and further provided, that the county government shall by ordinance exempt from taxation mobile homes which are not subject to taxation pursuant to § 8363 of this title. The funds realized by the county pursuant to this tax shall be segregated from the county's general fund and the funds, and all interest thereon, shall be expended solely for the benefit of the county's independent libraries. The government of Sussex County may adopt by ordinance or ordinances to provide for the effective administration and regulation of any taxes adopted pursuant to the authority conferred by this section.

(70 Del. Laws, c. 39, § 1.)

## § 8105. Property owned by governmental, religious, educational or charitable agency.

Property belonging to this State, or the United States, or any county of this State, or owned by any municipality of this State and held for public use, or any church or religious society, and not held by way of investment, or any college or school and used for educational or school purposes, except as otherwise provided, shall not be liable to taxation and assessment for public purposes by any county or other political subdivision of this State. Nothing in this section shall be construed to apply to ditch taxes, sewer taxes and/or utility fees. Corporations created for charitable purposes and not held by way of investment that are in existence on July 14, 1988, together with existing and future charitable affiliates of such corporations that are also not held by way of investment, shall not be liable to taxation and assessment for public purposes by any county, municipality or other political subdivision of this State.

(Code 1915, § 1098; Code 1935, § 1258; 9 Del. C. 1953, § 8103; 51 Del. Laws, c. 323; 64 Del. Laws, c. 77, § 1; 66 Del. Laws, c. 385, §§ 1, 2; 67 Del. Laws, c. 415, § 3; 70 Del. Laws, c. 39, § 1.)

## § 8106. Specific organizations and purposes.

(a) No real property owned and used by the organizations listed below or for the purposes stated below, except that which is held by way of investment, shall be liable to taxation and assessment for public purposes by any county or other political subdivision of this State.

New Castle Historical Society.
All incorporated relief associations for volunteer fire fighters (limit, $25,000 per association).
Nonsectarian Young Women's Christian Associations.
Nonsectarian Young Men's Christian Associations.
Salvation Army.
Burial lots and cemeteries.
Children's Home, Inc.
Sunday Breakfast Mission.
The Family Society.
Woods Haven School for Girls.
Ferris Industrial School.
Florence Crittenton Home.
All incorporated homes of refuge for reformed women (limit, $25,000 per home).
Charitable homes for incurables (limit, $15,000 per home).
Day nurseries or homes for babies owned by any corporation or association maintained by charity (limit, $50,000 per nursery or home).
Charitable incorporated homes or associations for deaconesses (limit, $10,000 per home).
Delaware Commission for the Blind.
Charitable incorporated settlement houses.
Soldiers' rest rooms.
Incorporated college fraternities (limit, $10,000 per fraternity).
Wilmington Institute Free Library.
Public parks in and near Wilmington.
American Legion Posts.
Veterans of Foreign Wars Posts.
Delaware Anti-Tuberculosis Society.
Delmar Lions Club.
Polish Army Veterans of Delaware, Post 48, Inc.
Lions Club of Smyrna.
Pencader 4-H Club Center, Inc.
Wilmington Drama League, Inc.
Council of Churches of Wilmington and New Castle
County, Inc.
New Temple Corporation.
Edgemoor Terrace Civic Association, Incorporated.
Hyde Park Civic Association, Inc.
Brookland Terrace Civic Club.
Manor Community Center, Inc.
Collins Park Community and Civic Association, Inc.
Veteran Employees Association, Delaware Division,Pennsylvania Railroad.
Pencader Grange # 60 P. of H., Inc.
Taylor's Bridge Community Center, Incorporated.
Blackbird Community Center, Inc.
Oakhill Community Center, Inc.
The Brookside Community, Inc.
Women's Civic Club of Richardson Park.
Hillside Civic Association.
The Klair Estates Civic Association, Inc.
The Castle Hills Civic Association.
Westview Maintenance Corporation.
Suburban Century Club.
Sussex Chapter of Delaware Humane Association.
Imperial Drive Civic Association.
Fruitland Grange, No. 16, Camden, Delaware.
Windy Hill Civic Association.
Perth Community and Civic Association, Inc.
Women's Club of Claymont.
Swanwyck Estates Civic Association.

The Eastern Shore Fox Hunters' Association.
Delaware Society for Crippled Children and Adults, Inc.
Yorklyn Parent-Teacher Association, Inc.
Wycliffe Civic Association, Inc.
Blue Rock Community Club.
Civic Association of Belvedere and Vicinity.
Lamborn Library Association.
Lutheran Senior Services, Inc.
University Drama Group, Inc.
Central Grange # 61.
Penn Acres Swim Club, Inc.
Viola-Canterbury-Felton Ruritan Club.
Lewes Senior Citizens Center, Incorporated.
Cannon Grange No. 65 P. of H.
Broadcreek Grange No. 59 P. of H.
Midland Grange No. 27 P. of H.
B'nai B'rith Lodge 470.
Jefferson Farms Swim Club, Inc.
Disabled American Veterans, Inc.
House of Pride, Inc.
Ministry of Caring, Inc.
Sacred Heart Housing, Inc.
The Greater Dover Foundation.
Habitat for Humanity of New Castle County.
Central Delaware Habitat for Humanity.
Sussex County Habitat for Humanity.
Friends of the Capitol Theater, Inc.
Serenity Place, Inc.
Any land bank formed under Chapter 47 of Title 31.

(b) No real property which has been required by New Castle County to be set aside for public parkland or public open space during the zoning or subdivision process shall be liable to taxation and assessment for public purposes by the county or other political subdivision of the State or county. Any outstanding penalty or interest incurred as a result of unpaid taxes on said property shall be forgiven.

(c) (1) All community-owned and community-maintained swimming pools within New Castle County shall not be liable for taxation and assessment for public purposes by any county or other political subdivision of this State. "Community-owned" and "community-maintained" shall consist of any civic organizations as defined in § 8110 of this title which is the owner of parkland as defined in § 8110 of this title.

(2) Any amounts previously taxed and assessed against a community-owned and community-maintained swimming pool, heretofore not collected by the county or other political subdivision of this State, are hereby declared null and void.

(d) All community-owned and community maintained swimming pools within Kent County shall not be liable for taxation and assessment for public purposes by any county or other political subdivision of this State. "Community-owned" and "community-maintained" shall consist of any civic organization as defined in § 8110 of this title which is the owner of parkland as defined in § 8110 of this title.

(Code 1852, §§ 184-189, 1372-1381; 11 Del. Laws, c. 376, § 5; 14 Del. Laws, c. 111; 14 Del. Laws, c. 357; 15 Del. Laws, c. 16; 15 Del. Laws, c. 424; 16 Del. Laws, c. 4; 16 Del. Laws, c. 125; 16 Del. Laws, c. 308, § 1; 16 Del. Laws, c. 552; 17 Del. Laws, c. 204, § 3; 17 Del. Laws, c. 207, §§ 80, 101; 17 Del. Laws, c. 207, Schedule A; 17 Del. Laws, c. 425, § 1; 17 Del. Laws, c. 495, § 9; 17 Del. Laws, c. 599, § 1; 18 Del. Laws, c. 165, § 1; 18 Del. Laws, c. 241; 18 Del. Laws, c. 465, § 1; 18 Del. Laws, c. 546, § 1; 19 Del. Laws, c. 124; 19 Del. Laws, c. 734, § 3; 21 Del. Laws, c. 1; 21 Del. Laws, c. 239, § 2; 22 Del. Laws, c. 139; 22 Del. Laws, c. 366; 22 Del. Laws, c. 367; 22 Del. Laws, c. 368; 22 Del. Laws, c. 369; 22 Del. Laws, c. 411; 23 Del. Laws, c. 46; 23 Del. Laws, c. 47; 23 Del. Laws, c. 92, §§ 1, 14; 23 Del. Laws, c. 159; 25 Del. Laws, c. 36; 25 Del. Laws, c. 37; 25 Del. Laws, c. 38; 25 Del. Laws, c. 39; 25 Del. Laws, c. 40; 26 Del. Laws, c. 37; 27 Del. Laws, c. 56; 27 Del. Laws, c. 101; Code 1915, §§ 1098, 1098A, 2257, 2271; 28 Del. Laws, c. 78, § 1; 29 Del. Laws, c. 71, § 1; 30 Del. Laws, c. 76, § 1; 30 Del. Laws, c. 152, § 1; 32 Del. Laws, c. 72, § 1; 38 Del. Laws, c. 72; 38 Del. Laws, c. 73; Code 1935, §§ 1258, 2582, 2596; 41 Del. Laws, c. 119, § 1; 43 Del. Laws, c. 113, § 1; 43 Del. Laws, c. 114, § 1; 44 Del. Laws, c. 89, § 1; 47 Del. Laws, c. 80, § 1; 9 Del. C. 1953, § 8105; 49 Del. Laws, c. 61; 50 Del. Laws, c. 448, §§ 1, 2; 51 Del. Laws, c. 17; 51 Del. Laws, c. 109; 51 Del. Laws, c. 131; 51 Del. Laws, c. 317; 52 Del. Laws, c. 30; 52 Del. Laws, c. 31; 52 Del. Laws, c. 61; 52 Del. Laws, c. 66; 52 Del. Laws, c. 73; 52 Del. Laws, c. 119; 52 Del. Laws, c. 123; 52 Del. Laws, c. 228; 52 Del. Laws, c. 243; 52 Del. Laws, c. 257; 52 Del. Laws, c. 258; 53 Del. Laws, c. 73; 53 Del. Laws, c. 163; 53 Del.

Laws, c. 190; 53 Del. Laws, c. 225; 53 Del. Laws, c. 226; 53 Del. Laws, c. 257; 54 Del. Laws, c. 25; 54 Del. Laws, c. 159; 55 Del. Laws, c. 148; 55 Del. Laws, c. 249; 55 Del. Laws, c. 251; 56 Del. Laws, c. 238; 57 Del. Laws, c. 27; 57 Del. Laws, c. 61; 57 Del. Laws, c. 119; 57 Del. Laws, c. 355; 57 Del. Laws, c. 406; 57 Del. Laws, c. 562; 57 Del. Laws, c. 563; 57 Del. Laws, c. 697; 57 Del. Laws, c. 715; 58 Del. Laws, c. 68; 64 Del. Laws, c. 432, § 1; 67 Del. Laws, c. 248, § 1; 67 Del. Laws, c. 415, § 3; 70 Del. Laws, c. 39, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 118, § 1; 77 Del. Laws, c. 125, § 1; 77 Del. Laws, c. 128, § 1; 77 Del. Laws, c. 243, § 1; 78 Del. Laws, c. 123, § 1; 79 Del. Laws, c. 5, § 1; 79 Del. Laws, c. 333, § 1; 80 Del. Laws, c. 155, § 2; 83 Del. Laws, c. 455, § 5; 84 Del. Laws, c. 256, § 2.)

## § 8106A. New Castle County property tax exemptions; applications; refunds [For application of this section, see 83 Del. Laws, c. 468, § 3].

(a) (1) This section applies to property in New Castle County that is entitled to an exemption as any of the following:

a. Owned by a religious, educational, or charitable agency, under § 8105 of this title or under New Castle County Code § 14.06.101.

b. Owned by a specific organization or for a specific purpose, under § 8106(a) of this title.

c. Parkland owned by a civic association, under § 8110 of this title.

d. Recreational properties, under New Castle County Code § 14.06.601.

e. Cemetery properties, under New Castle County Code § 14.06.701.

(2) No exemption from taxation for any property under paragraph (a)(1) of this section is allowed except after written application and the approval of New Castle County.

(b) An application for exemption must be filed with the Assessment Division of the New Castle County Office of Finance (Assessment Division), using the form provided by the Assessment Division. The date of the application is the date the application is received by the Assessment Division.

(c) (1) An exemption under this section is effective the later of the following:

a. The date the property owner met the criteria for the exemption.

b. Three years before the date of the application.

(2) If reviewing an application for exemption under this section that was decided on or after January 1, 2017, New Castle County shall determine and process any refund of New Castle County taxes to the property owner, regardless of who paid the property taxes, based on all of the following:

a. The effective date of the exemption under paragraph (c)(1) of this section.

b. Proration calculated under § 8111A of this title.

(3) If property is transferred from an owner eligible for an exemption under this section while that owner's exemption application is pending, New Castle County shall refund county taxes paid for the period of the exempt transferor's ownership, as prorated using the calculations under § 8111A(b) of this title.

(4) Interest does not accrue and is not owed on any credit or refund issued under this section.

(5) Paragraphs (c)(2) and (c)(3) of this section do not apply to school taxes levied under Title 14, and New Castle County may not refund school taxes under this section.

(d) Governmental entities entitled to exemption under this subchapter are not required to submit an application under this section.

(78 Del. Laws, c. 144, § 1; 83 Del. Laws, c. 468, § 1.)

## § 8107. Motion picture studios and plants.

(a) For a period of 15 years from the beginning of operation, motion picture studios and plants which shall be established in this State on or after July 1, 1937, including all lands, buildings and chattels, whether owned by a person, firm or corporation, utilized in connection therewith, and all raw materials going into the finished products of such studios and plants, as well as the finished products or films, shall be exempt from all ad valorem taxation.

(b) The exemption authorized in this section shall not apply to real estate owned by such motion picture studios and plants except the real estate occupied as the location required to house such motion picture studios and plants and other buildings incidental to the operation of such studios and plants together with such lands as may be required for housing officers and employees, and for warehouses, laboratories, cutting rooms, projection rooms, storage, trackage, shipping facilities, sets and locations.

(Code 1935, § 1258; 41 Del. Laws, c. 118, § 1; 9 Del. C. 1953, § 8106; 67 Del. Laws, c. 415, § 3; 70 Del. Laws, c. 39, § 1.)

## § 8108. Railroad property.

(a) All the real estate of railroad corporations within this State, excepting such real estate of such corporations as shall be included within the limits of the rights-of-way or roadbeds of their respective lines of railroads, shall be subject to taxation and assessment for county and municipal purposes in the same manner as other like property of individuals is subject thereto for like purposes, any provisions of any existing law or laws to the contrary notwithstanding.

(b) Any building erected in whole or in part within the limits of any such right-of-way or roadbed shall not, by reason of the exception made in this section, be exempted from assessment and taxation, although the land, upon which such building shall be wholly or in part located, is by this section expressly exempted therefrom.

(Code 1852, §§ 184-189, 1372-1381; 14 Del. Laws, c. 111; 14 Del. Laws, c. 357; 15 Del. Laws, c. 16; 15 Del. Laws, c. 424; 16 Del. Laws, c. 4; 16 Del. Laws, c. 125; 16 Del. Laws, c. 308, § 1; 16 Del. Laws, c. 552; 17 Del. Laws, c. 204, § 3; 17 Del. Laws, c. 207, § 101; 17 Del. Laws, c. 207, Schedule A; 17 Del. Laws, c. 425, § 1; 17 Del. Laws, c. 495, § 9; 17 Del. Laws, c. 599, § 1; 18 Del. Laws, c. 165, § 1; 18 Del. Laws, c. 241; 18 Del. Laws, c. 465, § 1; 18 Del. Laws, c. 546, § 1; 19 Del. Laws, c. 124; 19 Del. Laws, c. 734, § 3; 21 Del. Laws, c. 1; 21 Del. Laws, c. 239, § 2; 22 Del. Laws, c. 139; 22 Del. Laws, c. 366; 22 Del. Laws, c. 367; 22 Del. Laws, c. 368; 22 Del. Laws, c. 369; 22 Del. Laws, c. 411; 23 Del. Laws, c. 46; 23 Del. Laws, c. 47; 23 Del. Laws, c. 92, §§ 1, 14; 25 Del. Laws, c. 36; 25 Del. Laws, c. 37; 25 Del. Laws, c. 38; 25 Del. Laws, c. 39; 25 Del. Laws, c. 40; 26 Del. Laws, c. 37; 27 Del. Laws, c. 56; 27 Del. Laws, c. 101; Code 1915, § 1098; Code 1935, § 1258; 9 Del. C. 1953, § 8108; 70 Del. Laws, c. 39, § 1.)

## § 8109. Off-street parking facilities; exemptions.

Any county, municipality or other political subdivision of this State, by resolution or ordinance duly passed and approved, may exempt from taxation and assessment for public purposes for a period up to 20 years, any structure above or under the ground which may hereafter be constructed and located within the county, municipality or other political subdivisions of this State and used by the public for the parking of automobiles off the street or highway. The exemption shall be limited to that portion of the structure exclusively used for or devoted to the parking of automobiles and vehicles of that nature.

(9 Del. C. 1953, § 8109; 57 Del. Laws, c. 744; 65 Del. Laws, c. 132, § 1; 70 Del. Laws, c. 39, § 1.)

## § 8110. Civic organizations owning parkland.

(a) As used in this section:

(1) The term "civic organization" shall be defined as any nonprofit organization that is the owner of parkland, as defined herein, provided that:

a. The organization is not organized for profit or is qualified as an exempt organization under § 501(c) of the Internal Revenue Code of 1954 [26 U.S.C. § 501(c)], as amended;

b. No part of the net earnings of the organization inures to the benefit of any private shareholder or individual; and

c. Upon liquidation or dissolution of the organization, or abandonment by the organization, none of the assets of the organization nor benefits from its property will inure to the benefit of any person or organization except a community chest, fund, foundation, government, governmental agency, civic organization, maintenance corporation or other nonprofit organization.

(2) The term "parkland" means real property, including improvements erected thereon and fixtures attached thereto, used primarily for recreational purposes and dedicated as parkland, public open space, private open space or other public use on a recorded subdivision plan, or through valid and binding restrictive covenants, provided that:

a. The property is not used by the civic organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or bondholder of the organization or operator or any other person through the distribution of profits or the payment of excessive compensation;

b. The property is used for recreational purposes; and

c. The use of the property is open, without charge, to the public, or to members of the civic organization, or to the residents of the neighborhood, or to residents of the community or to residents of the subdivision in which the property is located, regardless of sex, race, creed, color, national origin, or any other basis protected under Chapter 45 of Title 6.

(b) No parkland owned by a civic organization shall be liable to taxation and assessment for public purposes by any county or other political subdivision of the State or county.

(c) Any taxes heretofore levied by any county or other political subdivision of the State or county on any such parkland owned, at the time of said levy, by a civic organization are voidable and the counties and political subdivisions of the State shall remove said taxes from their records upon receipt of an application filed by the organization establishing its entitlement under this section.

(d) This section shall not affect any taxes levied on any such property at any time prior to its acquisition by the civic organization, and such taxes, and any penalty that may accrue thereon, shall remain a lien against the property in accordance with the provisions of this title.

(66 Del. Laws, c. 420, § 1; 70 Del. Laws, c. 39, § 1; 85 Del. Laws, c. 144, § 5.)

## § 8111. Proration of yearly taxes when property in Kent County is transferred to an exempt entity.

(a) When real property in Kent County that is not exempt from taxes is transferred to an entity which is eligible for tax exemption pursuant to § 8105 or § 8106 of this title, tax is due and owing for the property for the tax year in which the transfer takes place, but only for the portion of the year, on a prorated basis, during which the property was owned by the nonexempt transferor. Proration is permitted only if the property is approved for exemption by the Kent County exemption application process. Proration pursuant to this section is permitted, notwithstanding the provisions of §§ 8313 and 8601 of this title.

(b) A proration under subsection (a) of this section is determined by dividing the total amount of property tax for the tax year in question by 365 and by multiplying the resulting number by the number of days in the tax year that the nonexempt transferor owned the property.

(c) If real property is transferred to an exempt transferee by a nonexempt transferor and the nonexempt transferor paid the taxes due for the property for the tax year of the transfer prior to the transfer, the nonexempt transferor may apply for a refund based on a proration pursuant to subsections (a) and (b) of this section of the taxes paid which are designated as county taxes, but not of the taxes paid which are designated as school taxes. If the refund application is approved, the county shall refund the proper amount to the nonexempt transferor.

(75 Del. Laws, c. 21, § 1.)

## § 8111A. Proration of yearly taxes when property in New Castle County is transferred to an exempt entity [For application of this section, see 83 Del. Laws, c. 468, § 3].

(a) When real property in New Castle County that is not exempt from taxation is transferred to an entity that is approved for a tax exemption under § 8106A of this title, tax is due and owing for the property for the tax year in which the transfer occurs, but only for the portion of the year when the property was owned by the nonexempt transferor.

(b) Proration under subsection (a) of this section is determined by dividing the total amount of property tax, for the tax year when the ownership of the property was transferred, by 365 and multiplying that total by the number of days in the tax year that the nonexempt transferor owned the property.

(83 Del. Laws, c. 468, § 2.)

## § 8112. Lodging tax.

(a) New Castle County may impose, by duly enacted ordinance, a local lodging tax of no more than 3% of the rent, in addition to the amount imposed by the State, for any room in a "hotel," "motel," "tourist home," or "short-term rental" as defined in §§ 6101 and 6201 of Title 30, which is located within the unincorporated areas of the county.

(b) [Repealed.]

(c) Sussex County may impose, by duly enacted ordinance, a local lodging tax of no more than 3% of the rent, in addition to the amount imposed by the State, for any room or rooms in a "hotel," "motel," "tourist home," or "short-term rental" as defined in §§ 6101 and 6201 of Title 30, which is located within the unincorporated areas of Sussex County. Any funds realized by Sussex County pursuant to this subsection shall be expended solely within Sussex County, for the capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, and water quality and flood control projects. An amount not to exceed 5% of the funds realized from the tax may be used to pay the costs of administering projects funded under this subsection.

(d) Rentals by the Department of Natural Resources and Environmental Control are exempt from the lodging tax established by this section.

(e) Notwithstanding any other provisions in this section, any funds realized by any county under this section may be used for workforce and affordable housing programs within that county.

(81 Del. Laws, c. 270, § 1; 82 Del. Laws, c. 102, § 1; 82 Del. Laws, c. 104, § 1; 82 Del. Laws, c. 227, § 1; 84 Del. Laws, c. 354, § 1; 84 Del. Laws, c. 474, § 5.)

## § 8113. Fire protection fee.

(a) For purposes of this section:

(1) "Ambulance service provider" means an organization that is a recipient of a grant-in-aid for the current fiscal year for the operation and maintenance of ambulances in the public service.

(2) "Fire company" means a nonprofit fire company that is a recipient of a grant-in-aid for the current fiscal year.

(3) "Fire protection" means the prevention and extinguishment of fires; maintenance of apparatus and equipment, including ambulances, rescue trucks, aerial, or platform trucks and rescue boats; provision of basic life support; and operation of stations.

(4) "Fire protection provider" means a fire company or an ambulance service provider that provides fire protection outside the City of Wilmington.

(b) (1) A county may impose, by ordinance, a fire protection fee.

(2) A fire protection fee may be collected from property that is otherwise exempt from taxation and assessment unless any of the following apply:

a. The property is owned by this State.

b. An exemption from the collection of the fire protection fee is provided by the county.

(c) (1) A county must do all of the following with any money collected under this section:

a. Deposit and hold all of the money in an account that is segregated from the county's general funds.

b. Except as provided under paragraph (c)(3) of this section, distribute all of the money, including any accrued interest, in the manner required under paragraph (c)(2) of this section, within 18 months of receipt.

(2) a. The money collected under this section may only be distributed to fire protection providers providing fire protection in the county.

b. A county shall establish criteria for how the money is distributed under paragraph (c)(2)a. of this section.

(3) A county may use no more than 5% of the money annually deposited under paragraph (c)(1)a. of this section for administering this section.

(d) If a fire protection fee is not paid as and when due, all of the following apply:

(1) A penalty on the unpaid balance may accrue and be due to the county at a rate and in a manner set by ordinance. The county may establish procedures for the abatement of this penalty.

(2) The unpaid balance and any penalties accrued thereon shall be a lien on the property upon which the fire protection fee was incurred. This lien shall be superior and paramount to the interests in such property of any owner, lessee, tenant, mortgagee, or other person, except the lien of taxes.

(3) The county may institute a proceeding for the enforcement of a lien under paragraph (d)(2) of this section with accrued penalties, and all costs thereon, under the method for collecting delinquent taxes established under Chapter 87 of this title. Grounds and buildings, or any part thereof, may be sold by the sheriff of the county as is provided by law.

(e) A fire protection provider must include the money received under this section in the annual audit required under § 6608 of Title 16.

(84 Del. Laws, c. 335, § 1.)

## Subchapter II

## Citizens Over 65 Years of Age

### § 8131. Definitions [For application of this section, see 81 Del. Laws, c. 314, § 2].

As used in this subchapter:

(1) “Income” means all income from whatever source derived including realized capital gains and, in their entirety, pension, annuity, retirement, and Social Security benefits. For any tax year for which an exemption is claimed, “income” is determined to be equal in amount to the income received during the pretax year.

(2) “Pretax year” means the calendar year immediately preceding the “tax year.”

(3) “Resident'' means one legally domiciled within the State for a period of 10 years immediately preceding October of the pretax year.

a. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile within the State for the purposes of this subchapter. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State is on the claimant.

b. For claimants establishing legal domicile in this state after December 31, 2018, only claimants who, as of June 30 immediately prior to the beginning of the county fiscal year, have been legally domiciled within the state for a period of at least 10 consecutive years are eligible to receive a credit.

(4) “Tax year” means the calendar year in which the county real estate tax is due and payable.

(9 Del. C. 1953, § 8131; 55 Del. Laws, c. 163, § 1; 55 Del. Laws, c. 232; 56 Del. Laws, c. 26, §§ 1, 2; 81 Del. Laws, c. 314, § 1.)

### § 8132. Qualifications and amount of exemption.

(a) Every person, a resident of this State of the age of 65 or more years, having an income not in excess of $3,000 per year and residing in a dwelling house owned by the person which is a constituent part of the person’s real property, shall be entitled, on proper claim being made therefor, to exemption from taxation on such real property to an assessed valuation not exceeding $5,000 in the aggregate, except that:

(1) No such exemption shall be in addition to any other exemption to which said person may be entitled; and

(2) No such exemption shall be permitted where said person’s spouse lives in said dwelling house and has an income in excess of $3,000 per year.

(b) Nothing in this subchapter shall be construed to apply to property taxes levied within and by a municipality.

(c) Nothing in this subchapter shall be construed to apply to ditch taxes and sewer taxes.

(9 Del. C. 1953, § 8132; 55 Del. Laws, c. 163, § 1; 56 Del. Laws, c. 26, § 3; 57 Del. Laws, c. 70; 70 Del. Laws, c. 186, § 1.)

### § 8133. Application for exemption.

(a) No exemption from taxation on the valuation of real property as provided in this subchapter shall be allowed except on written application therefor, which application shall be on a form prescribed by the governing bodies of the respective counties and provided for the use of the claimants under this subchapter by the governing body of the taxing district in which such claim is to be filed.

(b) An application for exemption under this subchapter shall be filed with the assessor of the taxing district by a date determined by the taxing district, which shall not be earlier than 45 days prior to the last date of the pre tax year; provided, however, that unless the income of the applicant has changed to exceed the $3,000 allowed, or unless the applicant no longer owns the dwelling which is a constituent part of the applicant’s real property, or unless the applicant’s spouse has income exceeding the $3,000 maximum, annual renewal shall not be required to qualify under this subchapter.

(9 Del. C. 1953, § 8133; 55 Del. Laws, c. 163, § 1; 56 Del. Laws, c. 26, § 4; 60 Del. Laws, c. 430, § 1; 62 Del. Laws, c. 215, § 1; 69 Del. Laws, c. 13, § 3; 70 Del. Laws, c. 186, § 1.)

## § 8134. Contents of application.

Every fact essential to support a claim for exemption under this subchapter shall exist on September 1 of the pretax year. Every application by a claimant therefor shall establish that the applicant was, on September 1 of the pretax year:

(1) A resident of this State for the period required;

(2) Of the age of 65 or more years;

(3) The owner of a dwelling house which is a constituent part of the real property for which such exemption is claimed;

(4) Residing in said dwelling house.

Such applicant shall also establish that his or her income for the yearly period as provided by this subchapter did not exceed $3,000, and that his or her spouse, if living in said dwelling house, does not have an income in excess of $3,000.

(9 Del. C. 1953, § 8134; 55 Del. Laws, c. 163, § 1; 56 Del. Laws, c. 26, § 5; 70 Del. Laws, c. 186, § 1.)

## § 8135. Allowance of exemption.

If an application is approved by the assessor, the assessor shall allow an exemption from taxation against the assessed valuation of the real property assessed to the claimant in the amount of the claim approved by the assessor.

(9 Del. C. 1953, § 8135; 55 Del. Laws, c. 163, § 1; 70 Del. Laws, c. 186, § 1.)

## § 8136. Continuance of exemption.

Any assessor may, at any time, require the filing of a new application or such proof as the assessor shall deem necessary to establish the right of a claimant to continued exemption. A claimant shall inform the assessor of any change in the assessor's status or property which may affect the assessor's right to continuance of exemption.

(9 Del. C. 1953, § 8136; 55 Del. Laws, c. 163; 56 Del. Laws, c. 26, § 6; 69 Del. Laws, c. 13, § 1; 70 Del. Laws, c. 186, § 1.)

## § 8137. Tenants in common or joint tenants.

(a) Where title to property on which an exemption is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, claimant shall not be allowed an exemption against the claimant's interest in said property in excess of the assessed valuation of the claimant's proportionate share in said property, which proportionate share, for the purposes of this subchapter, shall be deemed to be equal to that of each of the other tenants, unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

(b) Nothing in this subchapter shall preclude more than 1 tenant, whether title be held in common or joint tenancy, from claiming exemption against the property so held, but no more than the equivalent of 1 full exemption in regard to such property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, the exemption shall be apportioned between or among them in proportion to their interest. Property held by husband and wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but not more than 1 exemption in regard to such property shall be allowed in any year.

(c) Right to claim exemption under this subchapter shall extend to property the title to which is held by a partnership to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim exemption under this subchapter, but not to property the title to which is held by a corporation.

(9 Del. C. 1953, § 8137; 55 Del. Laws, c. 163, § 1; 70 Del. Laws, c. 186, § 1.)

## § 8138. Rules and regulations.

The Department of Finance of New Castle County or Board of Assessments for Kent County or Board of Assessments for Sussex County may promulgate such rules and regulations and prescribe such forms as they shall deem necessary to implement this subchapter. They may, in their discretion, eliminate the necessity for sworn application, in which event all declarations by the claimant shall be considered as if made under oath and the claimants, as to false declarations, shall be subject to the penalties as provided by law for perjury.

(9 Del. C. 1953, § 8138; 55 Del. Laws, c. 163, § 1; 56 Del. Laws, c. 26, § 7.)

## § 8139. Oaths.

Each assessor and collector and his or her duly designated assistants may take and administer the oath, where required, on any claim for exemption under this subchapter and no charge shall be made for the taking of any affidavit or the preparation of any form required by this subchapter.

(9 Del. C. 1953, § 8139; 55 Del. Laws, c. 163, § 1; 70 Del. Laws, c. 186, § 1.)

## § 8140. Appeals.

An aggrieved taxpayer may appeal from the disposition of an exemption claim under this subchapter in the same manner as is provided for appeals from assessments generally.

(9 Del. C. 1953, § 8140; 55 Del. Laws, c. 163, § 1.)

## § 8141. Exemption from property taxes on real estate in Kent County.

The provisions of this chapter notwithstanding, the Kent County Levy Court shall by ordinance provide for the exemption of real property owned by citizens over age 65 from real estate taxes to such degree and in such manner as it determines will best promote the

public welfare; provided, however, that any such ordinance adopted shall include language substantially similar to that of § 8133(b) of this title.

(66 Del. Laws, c. 148, § 1; 69 Del. Laws, c. 13, § 2.)

## Subchapter III

## Nonprofit Housing for the Elderly

### § 8151. Property subject to exemption.

Land and improvements held by a church, religious society, charitable corporation, or nonprofit organization principally devoted to housing of elderly persons and not held for investment and which is constructed pursuant to the provisions of § 231 of the National Housing Act, as presently in effect and set forth in 12 U.S.C. § 1715v and which is regulated by the Federal Housing Commissioner pursuant to such section and pursuant to the applicable federal regulations presently in effect adopted by the Federal Housing Commissioner, shall not be liable to taxation and assessment for public purposes by any county or other political subdivision of this State; provided, however, that no less than 75% of the dwelling units in the property shall be rented and occupied at all times by elderly persons as defined in § 8152 of this title and the entire property shall be operated on a nonprofit basis.

(9 Del. C. 1953, § 8151; 55 Del. Laws, c. 178.)

### § 8152. Definitions.

As used in this subchapter, the term “elderly persons” means persons who have attained their sixty-second birthday.

(9 Del. C. 1953, § 8152; 55 Del. Laws, c. 178.)

### § 8153. Certification as tax exempt.

No church, religious society, charitable corporation or nonprofit organization shall be entitled to the exemption granted by § 8151 of this title unless it is certified as tax exempt by this State for purposes of corporate franchise taxes and income taxes, and by the United States government for purposes of income taxes; such certification must be filed with the appropriate tax assessment office of the county and other political subdivision of this State in which the project is situate.

(9 Del. C. 1953, § 8153; 55 Del. Laws, c. 178.)

### § 8154. Conditions for charitable exemptions; penalty for false statement or certification.

No church, religious society, charitable corporation or other nonprofit organization shall be entitled to the exemption granted pursuant to this subchapter unless the following additional conditions are satisfied:

(1) An affidavit must be filed with the taxing authorities of the county and other political subdivisions by the president of the organization or the executive director or presiding authority of the organization, certifying that said organization is nonprofit and that the project for which exemption is sought is operated on a nonprofit basis and is principally devoted to housing for the elderly as defined in § 8152 of this title. The affidavit must further state the name and address of the officers of the organization, the purposes of the organization, and the basis for the authority of the officer to make and file such affidavit on behalf of the organization;

(2) A certified financial statement must be filed with the taxing authorities showing all income received by the organization from any source in connection with the project and all expenditures made to any person in connection with the project for which exemption is sought; the statement must be certified by a certified public accountant authorized and licensed to practice in this State. The statement must be filed on or before July 1 of each calendar year; a projected statement must be filed for the first year of operation;

(3) A certification must be filed with the taxing authorities of the county and other political subdivision by the authorized officials of the organization certifying, warranting and covenanting that the project for which exemption is sought will be operated on a nonprofit basis during its entire existence and that it will not be sold, transferred, or conveyed except to another nonprofit church, religious society, charitable corporation or nonprofit organization qualifying for exemption under this subchapter and will not be principally devoted to any purpose other than housing for elderly persons as defined in § 8152 of this title. This certification shall bind the organization filing it in perpetuity and shall be enforceable in law and at equity by the county and other political subdivision of this State in which the project is situate;

(4) Any person, officer or director acting on behalf of any church, religious society, charitable corporation or nonprofit organization filing a false statement or certification shall be fined not less than $1,000 nor more than $10,000 and/or be imprisoned for not more than 10 years.

(9 Del. C. 1953, § 8154; 55 Del. Laws, c. 178.)

### § 8155. Assessed valuation; lien for taxes on termination of nonprofit use or ownership.

(a) The county board of assessment and the assessment boards of other political subdivisions shall each year establish the assessed value of any property for which exemption is granted pursuant to this subchapter in the same manner as other properties which are taxable are assessed.

(b) In the event that a project granted exemption under this subchapter is ever operated on a profit-making basis or conveyed to a profit-making corporation, organization or other person, or is principally devoted to any purpose other than housing for the elderly as defined in § 8152 of this title, then and in that event, a tax lien shall attach to the land and improvements previously granted tax exemption, in the amount of the taxes which would have been due and owing the county and other political subdivision for all past years, including interest and penalties, if tax exemption had not been granted.

(9 Del. C. 1953, § 8155; 55 Del. Laws, c. 178.)

## § 8156. Special assessments in lieu of taxes.

Any church, religious society, charitable corporation or nonprofit organization granted a tax exemption pursuant to this subchapter, shall pay to the county and other political subdivision in which the project is situate, in lieu of taxes, a special assessment in an amount not less than 10% of the gross rentals derived from the project, less the cost of utilities and the cost of providing special social services to the elderly persons residing in the project. This sum shall be divided between the county and other political subdivisions having authority to levy ad valorem taxes on land and improvements in which the project is situate in proportion to their respective tax rates.

(9 Del. C. 1953, § 8156; 55 Del. Laws, c. 178.)

# Part V
# County Taxes

## Chapter 82
## Boards of Assessment [Repealed].

### § 8201. Board of Assessment for Kent County [Repealed].

(31 Del. Laws, c. 14, § 2; Code 1935, § 1288; 9 Del. C. 1953, § 8202; 65 Del. Laws, c. 305, § 1; 70 Del. Laws, c. 186, § 1; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8202. Vacancies [Repealed].

(Code 1852, § 116; Code 1915, §§ 1101A, 1101B, 1104; 28 Del. Laws, c. 79, § 3; 29 Del. Laws, c. 72, § 3; 30 Del. Laws, c. 77, § 3; 31 Del. Laws, c. 14, § 3; Code 1935, §§ 1261, 1289, 1317; 9 Del. C. 1953, § 8204; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8203. Salaries of members [Repealed].

(Code 1852, § 2821; 21 Del. Laws, c. 27, § 6; 22 Del. Laws, c. 282, § 1; 23 Del. Laws, c. 48; 23 Del. Laws, c. 50, § 3; 27 Del. Laws, c. 55; Code 1915, §§ 1103-1103B; 28 Del. Laws, c. 79, § 5; 29 Del. Laws, c. 72, § 5; 30 Del. Laws, c. 77, § 5; 31 Del. Laws, c. 14, § 6; 37 Del. Laws, c. 103, § 1; 40 Del. Laws, c. 133; Code 1935, §§ 1262, 1292, 1318; 45 Del. Laws, c. 109, § 1; 45 Del. Laws, c. 126, §§ 1, 2; 46 Del. Laws, c. 173, § 1; 46 Del. Laws, c. 298, §§ 1, 2; 47 Del. Laws, c. 192, §§ 1, 2; 9 Del. C. 1953, § 8205; 49 Del. Laws, c. 290, § 2; 50 Del. Laws, c. 490, § 1; 52 Del. Laws, c. 174, § 6; 53 Del. Laws, c. 222, § 10; 54 Del. Laws, c. 23, § 10; 55 Del. Laws, c. 85, § 21; 57 Del. Laws, c. 692, § 2; 57 Del. Laws, c. 762, § 20; 66 Del. Laws, c. 338, § 1; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8204. Expenses of members [Repealed].

(Code 1915, §§ 1103A, 1103B; 28 Del. Laws, c. 79, § 5; 29 Del. Laws, c. 72, § 5; 29 Del. Laws, c. 73, § 3; 30 Del. Laws, c. 77, § 5; 31 Del. Laws, c. 14, § 6; 37 Del. Laws, c. 103, § 1; 40 Del. Laws, c. 133, § 1; Code 1935, §§ 1262, 1292, 1318; 45 Del. Laws, c. 126, §§ 1, 2; 9 Del. C. 1953, § 8206; 52 Del. Laws, c. 235; 53 Del. Laws, c. 222, § 12; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8205. Disqualification for other offices [Repealed].

(Code 1915, §§ 1101A, 1101B; 28 Del. Laws, c. 79, § 3; 29 Del. Laws, c. 72, § 3; 30 Del. Laws, c. 77, § 3; 31 Del. Laws, c. 14, § 3; Code 1935, §§ 1261, 1289, 1317; 9 Del. C. 1953, § 8207; 70 Del. Laws, c. 186, § 1; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8206. Oath of office [Repealed].

(Code 1852, § 179; Code 1915, §§ 1139-1139B; 28 Del. Laws, c. 79, § 27; 29 Del. Laws, c. 72, § 29; 30 Del. Laws, c. 77, § 27; 31 Del. Laws, c. 14, § 5; Code 1935, §§ 1284, 1291, 1337; 9 Del. C. 1953, § 8209; 70 Del. Laws, c. 186, § 1; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8207. Removal from office; notice; hearing; appeal [Repealed].

(Code 1915, §§ 1101A, 1101B; 28 Del. Laws, c. 79, § 3; 29 Del. Laws, c. 72, § 3; 30 Del. Laws, c. 77, § 3; 31 Del. Laws, c. 14, § 4; Code 1935, §§ 1261, 1290, 1317; 9 Del. C. 1953, § 8210; 70 Del. Laws, c. 186, § 1; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8208. Employees [Repealed].

(Code 1915, §§ 1123, 1123A; 28 Del. Laws, c. 79, § 16; 30 Del. Laws, c. 78, § 6; 31 Del. Laws, c. 14, § 13; 36 Del. Laws, c. 121, § 1; Code 1935, §§ 1270, 1298, 1325; 9 Del. C. 1953, § 8211; repealed by 78 Del. Laws, c. 142, § 1, eff. Jan. 8, 2013.)

### § 8209. Location of regular offices of boards; temporary offices [Repealed].

Repealed by 75 Del. Laws, c. 27, § 1, effective May 17, 2005.

### § 8210. Books from which to ascertain ownership and description of real estate [Repealed].

(Code 1915, § 1126A; 28 Del. Laws, c. 79, § 19; 29 Del. Laws, c. 72, § 20; 30 Del. Laws, c. 77, § 19; 30 Del. Laws, c. 78, § 7; Code 1935, § 1272; 46 Del. Laws, c. 299, § 1; 9 Del. C. 1953, § 8213; repealed by 78 Del. Laws, c. 142 § 1, eff. Jan. 8, 2013.)

# Part V
# County Taxes

## Chapter 83
## Valuation and Assessment of Property

### Subchapter I
### General Provisions

### § 8301. Annual assessment of all assessable property and persons.

(a) The procedure in Kent County shall be as provided in Chapter 41 of this title.

(b) The procedure in New Castle County shall be as provided in Chapter 13 of this title.

(c) The procedure in Sussex County shall be as provided in Chapter 70 of this title.

(Code 1852, §§ 186, 188; 13 Del. Laws, c. 394; 16 Del. Laws, c. 322; 19 Del. Laws, c. 26, § 27; 19 Del. Laws, c. 562, § 11; 19 Del. Laws, c. 566, § 1; 20 Del. Laws, c. 389, § 1; 21 Del. Laws, c. 29, §§ 1, 2; 23 Del. Laws, c. 49, § 4; Code 1915, §§ 1107-1109A; 28 Del. Laws, c. 79, §§ 9, 10; 29 Del. Laws, c. 72, §§ 9-11; 30 Del. Laws, c. 77, §§ 9, 10; 30 Del. Laws, c. 78, §§ 1-3; 31 Del. Laws, c. 14, § 16; 38 Del. Laws, c. 74, § 1; Code 1935, §§ 1263, 1264, 1266, 1301, 1302, 1319, 1320; 44 Del. Laws, c. 91, § 1; 9 Del. C. 1953, § 8301; 49 Del. Laws, c. 382; 55 Del. Laws, c. 85, §§ 22A, 22B; 56 Del. Laws, c. 103, § 10; 57 Del. Laws, c. 762, §§ 21A, 21B; 78 Del. Laws, c. 142, § 4.)

### § 8302. Revision and correction of assessments and valuations.

(a) Each board of assessment or Department or Office of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

(b) Each board of assessment or Department or Office of Finance may correct errors in assessment lists at any time.

(c) Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an increased valuation.

(24 Del. Laws, c. 57, §§ 1-6; 25 Del. Laws, c. 35; Code 1915, §§ 1109, 1109A, 1113, 1123, 1123A; 28 Del. Laws, c. 79, §§ 10, 16; 30 Del. Laws, c. 77, § 10; 30 Del. Laws, c. 78, §§ 3, 6; 31 Del. Laws, c. 14, §§ 14, 16; 36 Del. Laws, c. 121, § 1; Code 1935, §§ 1266, 1270, 1299, 1301, 1320, 1325; 9 Del. C. 1953, § 8302; 60 Del. Laws, c. 468, § 5; 71 Del. Laws, c. 401, § 91; 84 Del. Laws, c. 412, § 7.)

### § 8303. Written statement listing property owners, value, type, etc.

(a) Each board of assessment or Department or Office of Finance shall make a written statement of their assessments. Each board of assessment or Department or Office of Finance shall distinguish between improved land and unimproved land. Any name included on such statement will be regarded as an aid to identify such property, and a mistake in the name of the owner, last known owner or reputed owner, or the absence of name, shall not affect the validity of the assessment.

(b) In the case of Kent County, the statements required by this section shall be according to hundreds.

(Code 1852, § 163; 13 Del. Laws, c. 3, § 1; 17 Del. Laws, c. 22, § 1; Code 1915, §§ 1130-1130B; 28 Del. Laws, c. 79, § 21; 29 Del. Laws, c. 72, § 22; 30 Del. Laws, c. 77, § 21; 30 Del. Laws, c. 78, § 8; 31 Del. Laws, c. 14, § 10; 32 Del. Laws, c. 71, § 2; 33 Del. Laws, c. 78, § 1; 33 Del. Laws, c. 79, § 2; Code 1935, §§ 1277, 1296, 1331; 46 Del. Laws, c. 132, § 1; 9 Del. C. 1953, § 8304; 51 Del. Laws, c. 350; 55 Del. Laws, c. 11; 55 Del. Laws, c. 85, § 22C; 57 Del. Laws, c. 762, § 21C; 60 Del. Laws, c. 468, § 6; 71 Del. Laws, c. 401, § 91; 84 Del. Laws, c. 412, § 8.)

### § 8304. Powers in conducting hearings; refusal to answer; penalty.

(a) The respective county governing body may summon and compel the attendance of witnesses, examine such witnesses, and compel the production of such books and papers as are necessary, with respect to any assessable property. Each member of the respective county governing body may administer oaths or affirmations.

(b) Whoever fails, refuses or neglects to answer questions submitted by the respective county governing body or any member thereof, with respect to assessable property, or fails, neglects, or refuses to produce when required, such books and papers as are necessary with respect to assessable property, shall be fined not more than $100. Licensed real estate agents shall be privileged to refuse to answer any questions concerning the property of another of which such agent shall have the care, management or control, for sale or for rent, other than questions of ownership and location of such property.

(Code 1915, §§ 1124A, 1124B; 28 Del. Laws, c. 79, § 17; 29 Del. Laws, c. 72, § 18; 30 Del. Laws, c. 77, § 17; 31 Del. Laws, c. 14, § 11; Code 1935, §§ 1271, 1297, 1326; 9 Del. C. 1953, § 8305; 70 Del. Laws, c. 186, § 1.)

### § 8305. Subpoena power [Expires March 12, 2028, pursuant to 85 Del. Laws, c. 239, § 2].

(a) For purposes of this section, “county authority” means the Chief Financial Officer of the Office of Finance of New Castle County, the Director of the Department of Finance of Kent County, or the Finance Director of Sussex County.

(b) Each board of assessment or Department or Office of Finance shall have the power to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of books, papers, records, memoranda, or other evidence bearing upon the correctness of any assessed value of nonresidential real property whenever the board of assessment, Department, Office of Finance, or an appealing property owner relies upon income or cost comparison approaches to determine or contest the assessed value of that nonresidential real property.

(c) A subpoena issued under this section is effective throughout this State and may be enforced in other states or countries through available legal means.

(d) Service of a subpoena issued under this section may be made by the county authority, or other staff designated by the county authority, for the purpose of serving a subpoena as follows:

(1) Where the person served is an individual, by any of the following:

a. Serving the person to whom it is addressed personally.

b. Leaving it at the person's usual place of abode with an individual of suitable age and discretion residing therein.

c. Sending it by certified mail to the last known address of the person to whom the subpoena is addressed.

(2) Where the person served is a corporate or other entity, by any of the following:

a. Serving the registered agent personally or by certified mail.

b. Serving any individual authorized to accept service on behalf of the entity personally at the individual's usual place of business, the place of business of the entity, or by certified mail.

(e) (1) If a properly-served recipient of a subpoena fails or refuses to respond, the Superior Court may, upon application of the county authority, issue an order requiring the recipient of the subpoena to appear before the county authority in response to the subpoena or produce books, papers, records, memoranda, or other evidence. Failure to obey such an order may be punished by the court as a contempt thereof.

(2) Objections and exceptions to a subpoena under this section will be handled by the Superior Court according to the Superior Court's procedures and standards for the adjudication of administrative subpoenas.

(f) If any person wilfully refuses to make available books, papers, records, memoranda, or other evidence for examination by the county authority as required by this section, of the county authority's representative, or wilfully refuses to attend and testify as required by this section, the county authority may apply to a judge of Superior Court for an order directing such person to comply with the county authority's request for books, papers, records, memoranda, or other evidence for examination by the county authority, or for the person's attendance and testimony. If the books, papers, records, memoranda, or other evidence required by the county authority are in the custody of a corporation, the order of the Court may be directed to any principal officer of such corporation. If a person fails or refuses to obey such an order, such person shall be guilty of contempt of court.

(g) (1) Testimony given under a subpoena issued under this section must be taken in a nonpublic setting.

(2) A transcript or recording of testimony given under this section, and any book, paper, record, memoranda, or other evidence produced in response to a subpoena under this section, is not a public record for purposes of Chapter 100 of Title 29 (Freedom of Information Act), must be treated confidentially, and may not be used or disseminated by a county authority for any purpose other than assessment, valuation, or any proceeding related to assessment or valuation of real property under this chapter.

(85 Del. Laws, c. 239, § 1.)

## § 8306. Standard of assessment; frequency of reassessment.

(a) All property subject to assessment shall be assessed at its fair market value as of the date of the most recent reassessment base year in the county.

(b) (1) All real property must be reassessed by the county in which the real property is located at least once every 5 years.

(2) Each 5-year period under paragraph (b)(1) of this section starts on the date a county board of assessment adopts a certification under § 8314 of this title reflecting the completion of a general reassessment of all real property within that county.

(Code 1852, § 170; Code 1915, §§ 1133-1133B; 28 Del. Laws, c. 79, § 23; 29 Del. Laws, c. 72, § 25; 30 Del. Laws, c. 77, § 23; 31 Del. Laws, c. 14, § 8; 32 Del. Laws, c. 69, § 3; Code 1935, §§ 1280, 1294, 1333; 9 Del. C. 1953, § 8307; 84 Del. Laws, c. 162, § 1; 84 Del. Laws, c. 412, § 9.)

## § 8307. Use of local assessment lists.

(a) A county department of finance may enter into an agreement with the proper authorities of any city, town, or municipality to inspect and copy any assessment made for local purposes. If in the opinion of that department of finance the local assessment assesses all property at its present fair market value, then that department of finance may adopt that local assessment as the assessment for county purposes.

(b) In making the capitation assessments, the boards are authorized to examine the assessment lists of towns, cities and school districts, and the books of registered voters of the preceding election, in order that no person may be omitted from the assessment lists.

(Code 1915, §§ 1125A, 1133B; 28 Del. Laws, c. 79, § 18; 32 Del. Laws, c. 69, § 3; 30 Del. Laws, c. 77, § 18; 31 Del. Laws, c. 14, § 23; 32 Del. Laws, c. 69, § 3; 33 Del. Laws, c. 79, § 2; Code 1935, §§ 1280, 1308, 1319, 1327; 9 Del. C. 1953, § 8308; 84 Del. Laws, c. 162, § 2.)

## § 8308. Abandoned leaseholds.

Where land has been taken on ground rent, and afterwards deserted, so that the lessor cannot obtain the rent, the value of houses and lots shall be estimated without reference to the rent reserved.

(Code 1852, § 162-A; Code 1915, § 1129; Code 1935, §§ 1276, 1311, 1330; 9 Del. C. 1953, § 8309.)

## § 8309. Assessment where owner unknown.

If the board of assessment or Department or Office of Finance cannot discover the owner of any property, it shall nevertheless value the same, and state that the owner is unknown.

(Code 1852, § 164; Code 1915, §§ 1131, 1131B; 29 Del. Laws, c. 72, § 23; 30 Del. Laws, c. 77, § 22; 31 Del. Laws, c. 14, § 9; Code 1935, §§ 1278, 1295, 1332; 9 Del. C. 1953, § 8310; 55 Del. Laws, c. 85, § 22G; 60 Del. Laws, c. 468, § 7; 71 Del. Laws, c. 401, § 91; 84 Del. Laws, c. 412, § 10.)

## § 8310. Public inspection of completed assessment.

(a) Each board of assessment or Department or Office of Finance shall complete the assessment each year by the date herein specified and, except as provided otherwise in this section, shall make such assessment public in the manner specified below:

(1) New Castle County, by March 1; assessments open for inspection in the office of the Board and available on a website designated by the Office of Finance;

(2) Kent County, by April 1; assessment for each hundred to remain open thereafter for inspection at the office of the Board;

(3) Sussex County, by February 15; assessments open for inspection in the office of the Board.

(b) In Sussex County in the year of an annual assessment it shall not be necessary for the county governing body to make and post a copy of the assessment, except as to persons or property in respect of which a change has been made in the assessment since the previous year.

(12 Del. Laws, c. 539, § 2; 16 Del. Laws, c. 320, § 2; 20 Del. Laws, c. 390; 23 Del. Laws, c. 49, § 2; Code 1915, §§ 1112-1112B; 28 Del. Laws, c. 79, § 12; 29 Del. Laws, c. 72, § 13; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 78, § 4; 31 Del. Laws, c. 14, § 19; 32 Del. Laws, c. 71, § 1; 33 Del. Laws, c. 79, § 2; Code 1935, §§ 1267, 1304, 1322; 44 Del. Laws, c. 90, § 1; 44 Del. Laws, c. 91, § 2; 9 Del. C. 1953, § 8311; 55 Del. Laws, c. 85, § 22G; 56 Del. Laws, c. 132; 57 Del. Laws, c. 39; 57 Del. Laws, c. 532; 60 Del. Laws, c. 468, § 8; 71 Del. Laws, c. 401, § 91; 78 Del. Laws, c. 142, § 5; 84 Del. Laws, c. 412, § 11.)

## § 8311. Appeals and corrections upon completion of annual assessment.

(a) The Board of Assessment Review for New Castle County or its representatives shall hear appeals and make additions, alterations or corrections to the assessment. Any person desiring to take an appeal shall prior to March 15 file written notice thereof with the Board on such forms as the Board may prescribe and make available upon request, setting forth the assessment or assessments appealed from, the name and address to which the Board shall mail notice of the time and place of hearing, and such other information as the Board may require. The Board or its representatives shall hold hearings on a schedule and in the manner determined by it to be the most appropriate and efficient to handle all appeals in a timely manner. The Board shall provide at least 10 days' notice of the time, place and manner of the hearing by sending notice to the appealing party pursuant to § 8324 of this title. Failure of the appealing party to appear at the time and place fixed by the Board constitutes abandonment of the appeal.

(b) The Board of Assessment Review for Kent County or its representatives shall hear appeals and make additions, alterations or corrections to the assessment from March 1 to May 31 of each year or until all appeals have been heard and acted upon during a year of reassessment.

(c) The Board of Assessment Review for Sussex County or its representatives shall hear appeals and make additions, alterations or corrections to the assessment from March 1 to May 31 of each year or until all appeals have been heard and acted upon during a year of reassessment.

(d) If an assessment appeal results in reduction in the assessed value of real property and, as a result of that reduction, a property owner has overpaid any taxes collected by the county in the tax year the appeal was filed, the property owner is entitled to a refund of the tax overpayment if the total overpayment is $50 or more. If the total overpayment is less than $50, the county may elect to refund the overpayment or apply it as a credit to offset any subsequent tax obligation billed to that property.

(24 Del. Laws, c. 57; Code 1915, §§ 1112A, 1112B, 1113; 28 Del. Laws, c. 79, § 12; 29 Del. Laws, c. 72, § 13; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 78, § 4; 31 Del. Laws, c. 14, § 19; 33 Del. Laws, c. 79, § 1; Code 1935, §§ 1267, 1304, 1322; 44 Del. Laws, c. 90, § 1; 44 Del. Laws, c. 91, § 2; 46 Del. Laws, c. 303, § 1; 9 Del. C. 1953, § 8312; 55 Del. Laws, c. 5, § 1; 55 Del. Laws, c. 85, § 22C; 57 Del. Laws, c. 531; 57 Del. Laws, c. 762, § 21E; 59 Del. Laws, c. 246, § 1; 78 Del. Laws, c. 142, § 6; 84 Del. Laws, c. 412, § 12; 85 Del. Laws, c. 133, § 1.)

## § 8312. Notice that assessment may be inspected; appeals; notice of decision; appeals to Superior Court.

(a) Each board of assessment or Department or Office of Finance shall publish notices of the places and website if made available electronically, where the assessments may be inspected together with a notice of the time and place of the sittings to hear appeals and make additions or corrections to the assessments. The notices published by each board of assessment or Department or Office of Finance shall also state the time and place for filing written notices of appeal with each board of assessment or Department or Office of Finance

as provided in § 8311 of this title. Such notice shall appear in at least 2 newspapers in the case of Kent and Sussex Counties and, in the case of New Castle County, in the newspaper with the highest general circulation published in New Castle County. Each board of assessment or Department or Office of Finance may use such other means as will best bring such notice to the attention of the parties or taxables interested.

(b) Each board of assessment or Department or Office of Finance shall sit and hear all appeals properly filed and shall permit the introduction of all relevant evidence, including the testimony of witnesses, presented by the appellant. Each board of assessment or Department or Office of Finance shall make and keep a record of all evidence presented at such appeal proceedings. Each board of assessment or Department or Office of Finance shall notify the appellant in writing, by registered mail, of its decision within 30 days of the date of its decision.

(c) Any person who, after properly filing an appeal before any board of assessment or Department or Office of Finance feels aggrieved by the decision of such body may, within 30 days by postmark date after receiving notice of its decision, appeal therefrom to the Superior Court of the county in which such person resides. The decision of each board of assessment or Department or Office of Finance shall be prima facie correct and the burden of proof shall be on the appellant to show that such body acted contrary to law, fraudulently, arbitrarily or capriciously. The appellant shall be heard on the record and proceedings of each board of assessment or Department or Office of Finance which shall be certified to the Court by such body within 20 days after service on such body of a notice of appeal. The Court may permit the appellant or each board of assessment or Department or Office of Finance to present any new or different evidence pertinent to the matter. The Court may affirm, reverse or modify the decision of such body and the decision of the Court shall be final. The Court at its discretion may also remand the matter to the board to clarify issues of fact or to make findings consistent with the Court's decision.

(24 Del. Laws, c. 57; Code 1915, §§ 1112A, 1112B, 1113; 28 Del. Laws, c. 79, § 12; 29 Del. Laws, c. 72, § 13; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 78, § 4; 31 Del. Laws, c. 14, § 19; Code 1935, §§ 1267, 1304, 1322; 44 Del. Laws, c. 90, § 1; 46 Del. Laws, c. 303, § 1; 9 Del. C. 1953, § 8313; 50 Del. Laws, c. 181, § 1; 55 Del. Laws, c. 5, § 2; 55 Del. Laws, c. 85, § 22G; 58 Del. Laws, c. 559, §§ 6, 7; 60 Del. Laws, c. 468, § 9; 67 Del. Laws, c. 209, § 1; 68 Del. Laws, c. 167, § 2; 71 Del. Laws, c. 401, § 91; 73 Del. Laws, c. 288, § 1; 84 Del. Laws, c. 412, § 13.)

## § 8313. Taxables failing to appeal liable for tax as assessed.

If any taxable fails or neglects to perfect his or her appeal to the Board of Assessment Review of New Castle County, Kent County or Sussex County he or she shall be liable for the tax for such year as shown by the assessment lists.

(Code 1915, §§ 1112A, 1112B; 28 Del. Laws, c. 79, § 12; 29 Del. Laws, c. 72, § 13; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 78, § 4; 31 Del. Laws, c. 14, § 19; Code 1935, §§ 1267, 1304, 1322; 44 Del. Laws, c. 90, § 1; 9 Del. C. 1953, § 8314; 55 Del. Laws, c. 85, § 22H; 57 Del. Laws, c. 762, §§ 21F, 21G; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 142, §§ 7, 8.)

## § 8314. Report of total assessed valuation.

(a) After the closing of the hearings, the settlement of all appeals, and the adjustment of the assessment lists, each board of assessment shall ascertain the total of the assessed valuation of its county and certify the same to the county governing body as a basis on which the governing body may estimate and fix the tax rate. Each Board of Assessment Review shall certify the total of the assessed valuation to the county government through the Department or Office of Finance.

(b) The certification in Kent County shall be by May 1.

(Code 1915, §§ 1112A, 1112B; 28 Del. Laws, c. 79, § 12; 29 Del. Laws, c. 72, § 13; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 78, § 4; 31 Del. Laws, c. 14, § 20; Code 1935, §§ 1267, 1305, 1322; 44 Del. Laws, c. 90, § 1; 45 Del. Laws, c. 125, § 2; 9 Del. C. 1953, § 8315; 55 Del. Laws, c. 85, §§ 22D, 22I; 57 Del. Laws, c. 762, § 21H; 78 Del. Laws, c. 142, § 9; 84 Del. Laws, c. 412, § 14.)

## § 8315. Duplicate assessments.

(a) Each board of assessment or Department or Office of Finance shall, in each year, prepare and furnish duplicates of all assessments and alterations and corrections thereof by it in its books. Duplicate assessments may be in the form of a widely-accepted electronic file format.

(b) Such duplicates shall be furnished in Kent County by June 1.

(24 Del. Laws, c. 58; Code 1915, §§ 1123, 1123A; 28 Del. Laws, c. 79, § 16; 29 Del. Laws, c. 72, § 17; 30 Del. Laws, c. 78, § 6; 31 Del. Laws, c. 14, § 14; Code 1935, §§ 1270, 1299; 9 Del. C. 1953, § 8316; 55 Del. Laws, c. 85, § 22E; 57 Del. Laws, c. 762, § 21J; 60 Del. Laws, c. 468, § 10; 71 Del. Laws, c. 401, § 91; 84 Del. Laws, c. 412, § 15.)

## § 8316. Assessment lists not to be altered by county governing body.

The county governing body shall have no jurisdiction over, or supervision over, the assessment lists, nor shall it have power to change, alter or amend the same. The county governing body shall make no allowance to any person or corporation for or on account of any error in the assessment lists, or excessive assessment, but the assessment lists, as they shall be certified by the board of assessment of the counties, shall be deemed to be correct by the county governing body and shall be considered by it as final and conclusive.

(Code 1852, § 79; Code 1915, §§ 1063A, 1067; 28 Del. Laws, c. 76, § 12; 31 Del. Laws, c. 13, § 15; Code 1935, § 1232; 9 Del. C. 1953, § 8317.)

## § 8317. Personal inspection of property to adjust valuation; notice of change.

The board of assessment, or any member thereof, may personally inspect each tract, or parcel of real estate, and shall report in writing to the board its or that board member's opinion as to its value. If it shall appear that any property as returned by the owner or as listed on the books is not sufficiently valued, the board of assessment shall give notice thereof to the owner or person making such return and valuation, and shall fix a day, not less than 10 days after the date of the notice, for a hearing and determination. The powers granted in this section may be exercised by the Department of Finance in Sussex County, the Department of Finance in Kent County and the Office of Finance in New Castle County.

(Code 1852, § 158; Code 1915, §§ 1124-1124B; 28 Del. Laws, c. 79, § 17; 29 Del. Laws, c. 72, § 18; 30 Del. Laws, c. 77, § 17; 31 Del. Laws, c. 14, § 23; Code 1935, §§ 1271, 1308, 1326; 9 Del. C. 1953, § 8318; 55 Del. Laws, c. 85, § 22K; 57 Del. Laws, c. 762, § 21K; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 92; 78 Del. Laws, c. 142, § 10; 84 Del. Laws, c. 412, § 16.)

## § 8318. Adjustment of assessment inequalities between districts.

If any taxable shall make complaint to a board of assessment that the real estate in any election or representative district, as compared with other such districts, is not assessed in a fair and equitable manner, the board, or some member thereof, shall visit personally the district, and inspect personally the properties, the assessment of which is complained of, thereby to equalize and make perfect the assessments.

(Code 1915, § 1124A; 28 Del. Laws, c. 79, § 17; 30 Del. Laws, c. 77, § 17; 31 Del. Laws, c. 14, § 23; 33 Del. Laws, c. 79, § 2; Code 1935, §§ 1308, 1326; 9 Del. C. 1953, § 8319.)

## § 8319. Reports from those owning or controlling assessable property; procedure; failure to report; penalty.

(a) Each board of assessment may notify in writing any person who owns property liable to assessment, and every person having the care, management or control of real property liable to assessment, to deliver to the board within 30 days after such notice a particular account of the real property owned by him or her, and of property which is in his or her care, management or control, together with the correct name of such owner and his or her place of residence, with the parcels of real estate separated and identified and such other information as may be required by the board. Such return by the owner or agent in respect to real estate shall be made in the same manner in every year if required by the board. Accompanying such written notices shall be a form of schedule for the making of proper returns.

(b) Each board shall have full power and authority to compel any other or further return as occasion may require for the purpose of making additions, corrections or alterations to the assessment lists.

(c) Whoever fails to render an account, as required, within 10 days after the time limited for the making of his or her return, shall be fined not more than $100.

(d) The board may stay a prosecution for any violation of this section, upon the making and filing of a proper return and the payment of a sum of money not exceeding $10 for the use of the county by the person liable, to be fixed by the board, and the costs of prosecution, if any. A copy of this section shall accompany all written notices under this section.

(e) The forms and schedules for the return of taxable property, provided for herein, shall have appended thereto a form of certificate to be signed by the person making the return, or in case of a firm, association of persons, or corporation, by a member of such firm or association of persons, or by an officer of the corporation duly authorized so to act, that the return as made is a true, full and complete list of all real property liable to assessment and taxation and that the return fairly and truly describes the property and truly represents its true condition. The fact that an individual's name is signed on a certification attached to a corporate report shall be prima facie evidence that such individual is authorized to certify the report on behalf of the corporation; however, the official title or position of the individual signing the corporate report shall be designated.

(f) Nothing in this section shall be construed to apply to a licensed real estate agent having the care, management or control of, for sale or for rent, property of another in respect to such property.

(30 Del. Laws, c. 77, § 13; 30 Del. Laws, c. 78, § 5; 31 Del. Laws, c. 14, § 21; 33 Del. Laws, c. 79, § 1; Code 1915, §§ 1113A, 1113B; 28 Del. Laws, c. 79, § 13; 29 Del. Laws, c. 72, § 14; Code 1935, §§ 1268, 1306, 1323; 41 Del. Laws, c. 117, § 1; 42 Del. Laws, c. 109, § 1; 9 Del. C. 1953, § 8320; 51 Del. Laws, c. 100; 70 Del. Laws, c. 186, § 1.)

## § 8320. Information to be supplied by building inspectors in New Castle County.

(a) The building inspector or other officer authorized by law to issue permits for new buildings or for repairs or additions to old buildings in any city or town in New Castle County shall report to the Office of Finance, once a permit is closed and a certificate of occupancy has issued, every permit processed by the inspector or other officer for the erection of a new building or the repair, alteration, or improvement of an old building.

(b) The permit information required under subsection (a) of this section must be updated at least monthly, in a manner prescribed by the Office, and must include all of the following:

(1) The estimated cost of the proposed new building or the proposed repair, alteration, or improvement of the old building.

(2) Whether a certificate of occupancy has been issued and if so, the date of issue.

(c) A city or town in New Castle County that fails to timely submit the information required under this section, must, within 10 days of the omission, submit a report to the Office of Finance, the Chief Clerk of the House of Representatives, the Secretary of the Senate,

and the Director and Librarian of the Division of Legislative Services detailing the reason why the information has not been submitted timely, what steps are being taken to address the problem, and when the information will be submitted.

(Code 1915, § 1128B; 29 Del. Laws, c. 72, § 21; Code 1935, § 1274; 9 Del. C. 1953, § 8321; 55 Del. Laws, c. 85, § 22F; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 93; 84 Del. Laws, c. 412, § 17; 85 Del. Laws, c. 408, § 1.)

## § 8321. Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department or Office of Finance shall propose to alter or change any assessment by increasing the same, or make a new assessment other than a general, supplemental, or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be.

(Code 1915, §§ 1109, 1109A; 28 Del. Laws, c. 79, § 10; 30 Del. Laws, c. 77, § 10; 30 Del. Laws, c. 78, § 3; 31 Del. Laws, c. 14, § 17; Code 1935, §§ 1266, 1303, 1321; 9 Del. C. 1953, § 8322; 55 Del. Laws, c. 85, § 22G; 71 Del. Laws, c. 401, § 91; 84 Del. Laws, c. 412, § 18.)

## § 8322. Discovery of unassessed property.

Each board of assessment or Department or Office of Finance shall take proceedings for the discovery of all unassessed real estate.

(Code 1915, §§ 1109, 1109A; 28 Del. Laws, c. 79, § 10; 29 Del. Laws, c. 72, § 11; 30 Del. Laws, c. 77, § 10; 30 Del. Laws, c. 78, § 3; 31 Del. Laws, c. 14, § 16; Code 1935, §§ 1266, 1301, 1320; 9 Del. C. 1953, § 8323; 55 Del. Laws, c. 85, § 22G; 57 Del. Laws, c. 762, § 21L; 71 Del. Laws, c. 401, § 94; 78 Del. Laws, c. 142, § 11; 84 Del. Laws, c. 412, § 19.)

## § 8323. False returns; perjury.

If any person making oath, affirmation or affidavit required under the provisions of this chapter swears or affirms falsely, that person shall be guilty of perjury.

(16 Del. Laws, c. 320, § 8; Code 1915, §§ 1122-1122B; 28 Del. Laws, c. 79, § 15; 29 Del. Laws, c. 72, § 16; 30 Del. Laws, c. 77, § 15; 31 Del. Laws, c. 14, § 22; Code 1935, §§ 1269, 1307, 1324; 9 Del. C. 1953, § 8324; 70 Del. Laws, c. 186, § 1.)

## § 8324. Notices to be by mail or by email.

Any notice required to be given under the provisions of this chapter may be sent by mail or by email when the property owner has provided an e-mail address for notice purposes. The day of the mailing or the e-mailing shall be deemed to be the day of the giving of such notice.

(Code 1915, §§ 1144A, 1144B; 28 Del. Laws, c. 79, § 30; 29 Del. Laws, c. 72, § 34; 30 Del. Laws, c. 77, § 30; 31 Del. Laws, c. 14, § 15; Code 1935, §§ 1286, 1300, 1339; 9 Del. C. 1953, § 8325; 84 Del. Laws, c. 412, § 20.)

## § 8325. Report of those liable for capitation tax.

Each Department or Office of Finance shall ascertain and report to the county government the number of persons liable to capitation tax when the report of the total valuation and assessment is made.

(Code 1915, § 1112A; 28 Del. Laws, c. 79, § 12; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 79, § 1; 31 Del. Laws, c. 14, § 20; Code 1935, §§ 1267, 1305, 1322; 44 Del. Laws, c. 90, § 1; 9 Del. C. 1953, § 8326; 55 Del. Laws, c. 85, § 22L; 57 Del. Laws, c. 762, § 21M; 71 Del. Laws, c. 401, § 95; 78 Del. Laws, c. 142, § 12; 84 Del. Laws, c. 412, § 21.)

## § 8326. Penalty.

Whoever fails to comply with this chapter, shall, if no other penalty is prescribed, be fined $100, or imprisoned not more than 1 year, or both.

(Code 1915, § 1130C; 30 Del. Laws, c. 78, § 8; Code 1935, § 1279; 9 Del. C. 1953, § 8327.)

## § 8327. Construction.

In the construction of this chapter, the powers and duties assigned solely to boards of assessment shall not be applicable to New Castle County, Kent County and Sussex County. All other provisions of this chapter from which New Castle County, Kent County and Sussex County are not specifically excluded shall be applicable to New Castle County, Kent County and Sussex County.

(9 Del. C. 1953, § 8328; 57 Del. Laws, c. 762, § 21N; 78 Del. Laws, c. 142, § 13.)

## § 8328. Purpose.

It is declared that it is in the public interest to:

(1) Encourage the preservation of farm land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the State, to conserve the State's natural resources and to provide for the welfare and happiness of the inhabitants of the State;

(2) Prevent the forced conversion of farm land and forest land to more intensive uses as a result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land and forest land; and

(3) That the necessity of the enactment of the provisions of this section is a matter of legislative determination.

(9 Del. C. 1953, § 8330; 56 Del. Laws, c. 373, § 1.)

## § 8329. Valuation of agricultural, horticultural and forest land use.

For general property tax purposes including school tax purposes, the value of land which is actively devoted to agricultural, horticultural or forest use and which has been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, on application of the owner, and approval thereof as provided in this section, be that value which such lands have for agricultural, horticultural or forest use; provided, that in the case of school taxes where such land is located in a public school district situated in 2 counties, the value of such land shall be that value arrived at by multiplying the value determined hereunder by the lower of the 2 general percentage rates of assessment in force in such counties for the tax year in issue.

(9 Del. C. 1953, § 8330A; 56 Del. Laws, c. 373, § 1; 59 Del. Laws, c. 313, § 1; 59 Del. Laws, c. 467, § 1; 64 Del. Laws, c. 127, § 1; 64 Del. Laws, c. 267, § 1.)

## § 8330. Agricultural use land.

Land shall be deemed to be in agricultural use when devoted to the production for sale of plants and animals useful to man, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

(9 Del. C. 1953, § 8330B; 56 Del. Laws, c. 373, § 1; 70 Del. Laws, c. 186, § 1.)

## § 8331. Horticultural use land.

Land shall be deemed to be in horticultural use when devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

(9 Del. C. 1953, § 8330C; 56 Del. Laws, c. 373, § 1.)

## § 8332. Forest use land.

Land shall be deemed to be in forest use when devoted to tree growth in such quantity and so spaced and maintained as to constitute in the opinion of the State Forester a forest area.

(9 Del. C. 1953, § 8330D; 56 Del. Laws, c. 373, § 1.)

## § 8333. Criteria for agricultural, horticultural, or forestry land use [For application of section, see 83 Del. Laws, c. 384, § 3].

(a) Land is actively devoted to agricultural, horticultural, or forestry use when at least 1 of the following criteria is met:

(1) The use results in $1,000 or more of agricultural, horticultural, or forestry products being produced and sold during the applicable year. For the purposes of this section, "applicable year" means the calendar year immediately before the February 1 that an application is due under § 8334(3) of this title.

(2) The owner of the land filed a Schedule F (Profit or Loss from Farming) form with the United States Department of Treasury, Internal Revenue Service, for the applicable year.

(b) In applying the criteria under this section, all contiguous parcels of land held by identical owners in identical proportions of ownership and in identical legal form of title, are considered as a single unit.

(9 Del. C. 1953, § 8331; 56 Del. Laws, c. 373, § 1; 64 Del. Laws, c. 127, § 2; 64 Del. Laws, c. 267, § 2; 65 Del. Laws, c. 65, § 1; 70 Del. Laws, c. 286, § 1; 83 Del. Laws, c. 384, § 1; 84 Del. Laws, c. 9, § 1.)

## § 8334. Eligibility for valuation under §§ 8330-8337 of this title [For application of section, see 83 Del. Laws, c. 384, § 3].

Land is actively devoted to agricultural, horticultural or forest use and eligible for valuation, assessment, and taxation as provided in this section when it meets all of the following qualifications:

(1) The land use meets the criteria under § 8333 of this title.

(2) [Repealed.]

(3) The owner of the land submits an application for valuation under this section and the application meets all of the following:

a. Is submitted on or before February 1 of the year immediately preceding the tax year to the assessor of the taxing district in which the land is situated. If February 1 falls on a weekend day or legal holiday, then the application must be submitted on the next official business day.

b. Is submitted on the form prescribed by the State Farmland Evaluation Advisory Committee.

c. Includes evidence in writing that the land is used for agricultural use under § 8330 of this title, horticultural use under § 8331 of this title, or forest use under § 8332 of this title.

(9 Del. C. 1953, § 8331A; 56 Del. Laws, c. 373, § 1; 64 Del. Laws, c. 127, §§ 3, 4; 64 Del. Laws, c. 267, § 3; 65 Del. Laws, c. 65, § 2; 70 Del. Laws, c. 286, § 2; 83 Del. Laws, c. 384, § 2; 84 Del. Laws, c. 9, § 1.)

## § 8335. Assessment procedures.

(a) The assessor in valuing land which qualifies as land actively devoted to agricultural, horticultural or forestry use under the tests prescribed by this section, and as to which the owner thereof has made timely application for valuation, assessment and taxation under this section for the tax year in issue, shall consider only those indicia of value of such land as established by the State Farmland Evaluation Advisory Committee.

(b) In determining the total area of land actively devoted to agricultural, horticultural or forest use there shall be included the area of all land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities, but land under, and such additional land as may be actually used in connection with the farmhouse, shall be excluded in determining such total area.

(c) All structures which are located on land in agricultural, horticultural or forest use and the farmhouse and the land on which the farmhouse is located, together with the additional land used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district.

(d) When land in agricultural use and being valued, assessed and taxed under the provisions of this chapter, is applied to a use other than agriculture, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued, assessed and taxed as other land in the taxing district, in the current tax year immediately preceding, in which the land was valued, assessed and taxed hereunder.

(1) If in the tax year in which a change in use of land occurs the land was not valued, assessed and taxed under this chapter, then such land shall be subject to roll-back taxes in the following manner. If the change of the use of land occurs prior to January 1, 1996, then such land shall be subject to roll-back taxes for the 5 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1996, and December 31, 1996, then such land shall be subject to roll-back taxes for the 6 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1997, and December 31, 1997, then such land shall be subject to roll-back taxes for the 7 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1998, and December 31, 1998, then such land will be subject to roll-back taxes for the 8 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1999, and December 31, 1999, then such land shall be subject to roll-back taxes for the 9 tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs on January 1, 2000, or thereafter, then such land shall be subject to roll-back taxes for the 10 tax years immediately preceding in which the land was valued, assessed and taxed hereunder.

(2) In determining the amounts of the roll-back taxes chargeable on land which has undergone a change in use, the assessor shall for each of the roll-back tax years involved, ascertain:

a. The full and fair value of such land under the valuation standard applicable to other land in the taxing district;

b. The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined by the assessing authority; and

c. The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under paragraph (d)(2)b. of this section by the general property tax rate of the taxing district applicable for that tax year.

(3) Roll-back taxes as provided herein shall become payable when the land is applied to a use other than agricultural, horticultural or forestry. The terms “applied to a use other than agriculture” and “change in use” for purposes of this subsection shall include any of the following:

a. The actual use of the land for an activity other than agricultural, horticultural or forestry;

b. The rezoning of the land to a nonagricultural category;

c. The approval of a site plan or issuance of a certificate of occupancy which allows for a nonagricultural usage; and

d. The loss of eligibility for valuation under §§ 8330-8337 of this title.

(4) Notwithstanding anything in this chapter to the contrary, whenever land in agricultural use is applied to a use other than agriculture, and such land is but a portion of a larger tract of land, the remainder of which continues in agricultural use, roll-back taxes as provided herein shall become payable only with respect to the portion of the land which is applied to a use other than agricultural, and the

remainder of the land which continues in agricultural use shall remain eligible for valuation under §§ 8330-8337 of this title, provided the criteria for land use set forth under § 8333 of this title continue to be satisfied. The owner of the land which continues in agricultural use shall not be required to apply for eligibility for valuation, and the burden for establishing ineligibility shall rest with the assessing authority.

(5) Roll-back taxes hereunder shall be paid within 90 days of their due date, and payment thereafter shall include a penalty of 6 percent of the amount due for the first month thereafter, and 1 percent of the amount due for each consecutive month until payment is made. The amount due for roll-back tax shall become a lien on the land which was subject to a change in use or applied to a use other than agriculture as of the due date. The school tax component of the roll-back tax shall be paid to the respective school districts which established the tax rates applicable to the lands through a payment first to the appropriate county receiver of taxes, treasurer or director of finance, who collects school taxes. The balance of the roll-back tax shall, when collected by the appropriate county receiver of taxes, treasurer or director of finance, be paid to the Delaware Agricultural Lands Preservation Foundation; provided, however, that $7^1/_2$ percent of such balance shall be withheld and paid to the county as a charge for administration. For purposes of this paragraph, the due date shall be the earlier of the date following conversion under paragraph (d)(3) of this section which is established by the respective counties for annual taxes or the date indicated by the county in any special billing for roll-back taxes.

(6) When land in agricultural use and being valued, assessed and taxed under the provisions of this chapter, is acquired for public use by State agencies, whether by condemnation, gift or purchase, and is then applied to a use other than agriculture, that portion of the land which is applied to such other use shall be subject to a payment by the agency in lieu of roll-back taxes, to be paid to the Delaware Agricultural Lands Preservation Foundation. The amount of this payment in lieu shall be determined as if it were the roll-back tax chargeable under this section for the tax year in which the land was acquired by the agency, or the tax year in which the land is applied to such other use, whichever is greater, after first deducting the school tax component of the roll-back tax chargeable for that year. This payment shall be made directly by the agency to the Foundation, after obtaining the assessment information from the appropriate county receiver of taxes, treasurer or director of finance, and shall not be subject to any charge for administration by the county. In all other respects, the land so acquired for such public use shall not be assessed or charged for roll-back or other property taxes by any county, school district or other political subdivision.

(9 Del. C. 1953, § 8331B; 56 Del. Laws, c. 373, § 1; 59 Del. Laws, c. 80, § 1; 64 Del. Laws, c. 127, §§ 6, 7; 68 Del. Laws, c. 371, §§ 1, 2; 69 Del. Laws, c. 241, § 1; 70 Del. Laws, c. 42, § 1; 72 Del. Laws, c. 90, § 1.)

## § 8336. Annual review.

(a) Eligibility of land for valuation, assessment and taxation under this section shall be determined for each tax year separately. Application shall be submitted by the owner to the assessor of the taxing district in which such land is situated on or before February 1 of the year immediately preceding the tax year for which such valuation, assessment and taxation are sought; provided however, that unless the eligibility of land under this section changes, those applications which have met the provisions to qualify under this chapter shall be automatically renewed without the owner having to apply annually. With respect to new applications, eligibility of the land for valuation, assessment and taxation under this section shall be conditioned upon advance execution by the landowner of a certification, in recordable form, as provided by the Delaware Agricultural Lands Preservation Foundation, which certification indicates that a roll-back tax is due and payable to the school districts and the Foundation under the provisions of § 8335(d) of this title at such time that the land is subjected to a change in use or applied to a use other than agricultural, horticultural or forestry, as such terms are defined, and that a failure to pay the roll-back tax when due results in the imposition of a lien on the land for nonpayment.

(b) (1) If the eligibility of land under this section changes the owner shall on or before February 1, of the following year in which the eligibility of the land changes, notify the assessing authority in the taxing district, in writing, of the change in land use.

(2) Any owner who fails to properly notify the assessing authority in the tax district of the change in land use shall be assessed a penalty for such failure in an amount of 20% of the rollback taxes recoverable against the property, which penalty shall be collected by the taxing district.

(9 Del. C. 1953, § 8331C; 56 Del. Laws, c. 373, § 1; 60 Del. Laws, c. 105, § 1; 64 Del. Laws, c. 127, § 5; 68 Del. Laws, c. 371, § 3; 70 Del. Laws, c. 287, § 1.)

## § 8337. State Farmland Evaluation Advisory Committee.

(a) There is hereby established a State Farmland Evaluation Advisory Committee.

(b) The Committee shall consist of 8 voting members:

(1) The Secretary of the Department of Finance, who shall serve as chair.

(2) One member, who shall be appointed by the Governor, from a list of 3 individuals provided to the Governor by the Executive Committee of the Delaware State Grange.

(3) One member, who shall be appointed by the Governor, from a list of 3 individuals provided to the Governor by the Executive Committee of the Delaware Farm Bureau.

(4) One member, who shall be appointed by the Governor, with real-world knowledge and an experiential understanding of agricultural financing.

(5) One member, who shall be appointed by the Governor, with real-world knowledge and an experiential understanding of farmland valuation.

(6) The Secretary of the Delaware Department of Agriculture or their designee.

(7) The Dean of the College of Agriculture at the University of Delaware or their designee.

(8) One member, who shall be appointed by the Governor, from a list of 3 Delaware poultry growers provided to the Governor by the Executive Director of the Delmarva Chicken Association.

(c) No more than 4 voting members of the Committee shall be of the same political party.

(d) In addition to voting members, the Committee shall include 3 nonvoting members:

(1) One nonvoting member shall be an official from the Assessment Division of the Office of Finance of New Castle County.

(2) One nonvoting member shall be an official from the Assessment Division of the Department of Finance of Kent County Levy Court.

(3) One nonvoting member shall be an official from the Assessment Department of Sussex County.

(e) Each member of the Committee shall be a resident of this State.

(f) Each member of the Committee shall be appointed for a term of 4 years beginning on July 1 in the year of appointment. Each member may serve 2 additional terms. A member remains eligible to participate in the Committee proceedings until the Governor replaces that member. Vacancies for any cause other than the expiration of term shall be filled by the Governor for the unexpired term.

(g) A member of the Committee shall receive no compensation for the member's service on the Committee.

(h) The Governor may remove a member for gross inefficiency, misfeasance, nonfeasance, malfeasance, or neglect of duty in office.

(1) A member is deemed in neglect of duty if the member is absent from 3 consecutive Committee meetings without good cause.

(2) A member who is deemed in neglect of duty is considered to have resigned.

(i) The Committee shall meet at least once every 6 months. The meetings of the Committee are public.

(j) The Department of Finance, through the Secretary, shall provide reasonable staff support to assist the Committee in performing its duties.

(k) The Committee shall determine a range of values for each classification of land based upon its productive capabilities when devoted to agricultural, horticultural, or forest uses across this State. The Committee shall consider available evidence of agricultural, horticultural, or forest capability derived from the soil survey and such other evidence of value of land devoted exclusively to agricultural, horticultural, or forest uses as it may in its judgment deem pertinent.

(*l*) The Committee shall, at least once every 2 years, review its valuation formula and methodology utilized to determine the ranges of fair values for agricultural, horticultural, forestry land, and qualified farm structures and make such changes and revisions as are required to ensure that the objectives of this section are met. The formula used by the Committee shall be based on not less than the preceding 20 years of land values.

(m) The Committee shall publish its determinations and any review of its valuation formula and methodology in its annual report. The Committee shall submit this report to the Governor, the General Assembly, the Director and the Librarian of the Division of Legislative Services, and to the assessing authority of each county not later February 1 of each year.

(9 Del. C. 1953, § 8331D; 56 Del. Laws, c. 373, § 1; 64 Del. Laws, c. 127, § 8; 70 Del. Laws, c. 586, § 1; 85 Del. Laws, c. 318, § 1.)

## § 8338. Supplemental assessments permitted quarterly.

In addition to the annual assessment provided for in § 8301 of this title, each Board of Assessment Review of Kent and Sussex Counties and the Office of Finance of New Castle County may, at its option, prepare quarterly supplemental assessment rolls for the purpose of:

(1) Adding property not included on the last assessment; or

(2) Increasing the assessed value of property which was included on the last assessment.

The supplemental assessment roll may be used to correct errors on the prior assessment rolls and to remove or modify any exemption from taxation applicable to property in the county.

(9 Del. C. 1953, § 8332; 56 Del. Laws, c. 457, § 1; 71 Del. Laws, c. 401, § 96; 84 Del. Laws, c. 412, § 22.)

## § 8339. Certification of supplemental assessment roll.

(a) In New Castle County such supplemental assessment rolls shall be prepared quarterly during each fiscal year. The first such assessment roll shall be certified to the government of New Castle County on July 1 of each year, the second on October 1 of each year, the third on January 1 of each year and the fourth on April 1 of each year.

(b) In Kent County such supplemental assessment rolls shall be prepared quarterly in each fiscal year. The first such supplemental assessment roll shall be certified to the government of Kent County on June 1 of each year; the second on September 1 of each year; the third on December 1 of each year; and the fourth on March 1 of each year.

(c) In Sussex County such supplemental assessment rolls shall be prepared quarterly in each fiscal year. The first such supplemental assessment roll shall be certified to the government of Sussex County on May 1 of each year; the second on August 1 of each year; the third on November 1 of each year; and the fourth on February 1 of each year.

(9 Del. C. 1953, § 8333; 56 Del. Laws, c. 457, § 1.)

## § 8340. Levy of tax and creation of a lien based on the supplemental assessment roll.

On the date of certification of a supplemental tax roll to the respective county government:

(1) The property owners listed thereon shall be liable to pay taxes equal to the assessed value of the property multiplied by the tax rates for the then current fiscal year applicable to the property, reduced by 25% where the property is listed on the second supplemental assessment roll; by 50% where the property is listed on the third supplemental assessment roll; and by 75% where the property is listed on the fourth supplemental assessment roll; and

(2) The amount of such tax shall be and remain a lien on such property, together with any penalties which might thereafter accrue, until such taxes and penalties are paid in full.

Such tax rates shall include, without limitation, the tax rate imposed by any school boards for districts in which the property is located.

(9 Del. C. 1953, § 8334; 56 Del. Laws, c. 457, § 1.)

## § 8341. Retroactive taxation prohibited.

In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

(9 Del. C. 1953, § 8335; 56 Del. Laws, c. 457, § 1.)

## § 8342. Notice required under supplemental assessment procedure.

(a) Whenever the board of assessment or Department or Office of Finance places a property on a supplemental assessment roll, it shall deposit notice in the regular mail addressed to the owner of the property affected at the address shown on the assessment rolls, or if the address of such owner does not appear on the assessment roll, then to the person occupying the property.

(b) Each board of assessment or Department or Office of Finance shall publish notices of the places and website if made available electronically where the supplemental assessment roll may be inspected together with a notice of the time and place of the sittings to hear appeals. The notices published by the Office of Finance of New Castle County shall also state the time and place for filing written notices of appeal with the. Board. Such notice shall appear in at least 2 newspapers in the case of Kent and Sussex Counties and, in the case of New Castle County, in the newspaper with the highest general circulation published in New Castle County. Such publication shall begin no later than the date on which the supplemental assessment roll was certified.

(9 Del. C. 1953, § 8336; 56 Del. Laws, c. 457; 67 Del. Laws, c. 209, § 2; 71 Del. Laws, c. 401, §§ 96, 97; 84 Del. Laws, c. 412, § 23.)

## § 8343. Appeal of supplemental assessment; penalties and interest.

Within 30 days from the date on which notice of supplemental assessment is sent by the board of assessment or Department or Office of Finance the owner may appeal the supplemental assessment to the respective board of assessment or board of assessment review. The appeal shall be scheduled and heard by the board during its next regular appeal period as provided in this title. Pending determination of such appeal, the owner may: (1) pay the tax imposed by the supplemental assessment, and if on appeal the assessment is reduced, the owner shall be entitled to a refund of the taxes which the owner has overpaid plus interest thereon at the rate of 1% per month; or (2) not pay the tax imposed by the supplemental assessment, in which case penalties shall accrue at the rate of 1% per month on the amount of taxes computed in accordance with the determination of the appeal, and no action to collect the tax shall be taken until the appeal is determined. Such interest and penalties shall begin to accrue upon the expiration of 3 months from the date on which the unpaid tax became due and payable. Interest attributable to the overpayment of school taxes shall be paid by the school board of the districts entitled to receive such taxes.

(9 Del. C. 1953, § 8337; 56 Del. Laws, c. 457, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 97; 84 Del. Laws, c. 412, § 24.)

## § 8344. Requirement of written reports.

Section 8319 of this title may be utilized by the respective boards of assessment and the departments of finance in connection with the annual and supplemental assessment procedures.

(9 Del. C. 1953, § 8338; 56 Del. Laws, c. 457, § 1.)

## § 8345. Quality-control mechanism for general property reassessments; New Castle County [Expires March 31, 2027, pursuant to 85 Del. Laws, c. 237, § 3].

(a) Notwithstanding any other provision of the Code, to ensure the accuracy of a general reassessment, the Office of Finance for New Castle County may conduct a quality control review of a tax parcel’s new assessed value from a general reassessment when any 1 of the following circumstances exist:

(1) A clerical, mathematical, or factual mistake occurred during the new general reassessment process.

(2) A nonresidential tax parcel whose assessed value from the new general reassessment is at least $300,000 but decreased from its previous assessed value.

(3) A nonresidential tax parcel's assessed value from the new general reassessment is at least $300,000 and the percentage change in its newly-assessed value from its assessed value prior to the new general reassessment is no greater than 50% of the median increase of nonresidential properties in that county from the new general reassessment.

(4) A nonresidential tax parcel's assessed value from the new general reassessment is at least 25% less than the actual sale price from that parcel's most recent sale within the 5 years preceding the new general reassessment, whenever the actual sale price is determinable by public records.

(b) A quality control review of a tax parcel's assessed value must adhere to the standards of § 8306(a) of this title. After conducting a quality control review, the Office of Finance may make revisions and corrections to the parcel's assessed value from the new general reassessment.

(c) Any revisions and corrections made after a quality control review by the Office of Finance are subject to the notice and appeal requirements of §§ 8312 and 8321 of this title.

(d) Any revisions and corrections made by the Office of Finance under this section must be made no later than September 30, 2026.

(e) Notwithstanding the provisions of § 8601(1) of this title, all taxes assessed and levied subject to this section shall be due and payable on October 12, 2026. Notwithstanding the requirements of § 8602(b) of this title, New Castle County shall mail to all taxables in the county a statement of their taxes collectible by New Castle County, including school taxes, no later than November 16, 2026, and the due date for said taxes shall be December 31, 2026.

(f) Notwithstanding the provisions of § 8604(a)(1) of this title, the tax collecting authority of New Castle County shall, after January 1, 2027, add thereto a penalty of 6% of the current charge and 1% of the unpaid principal balance as of the first day of every month thereafter until the same shall be paid. Penalty shall accrue at the same rate on any supplemental tax bill issued pursuant to § 8340 of this title, beginning on the first day of the third month from the date upon which the tax liability became due and payable.

(g) For purposes of this section, any subpoena of records issued by the Office of Finance is subject to § 8304A of this title.

(h) This section does not create any private cause action to force, mandate, or otherwise require the Office of Finance conduct a quality control review upon any specific parcel.

(i) This section is not a limitation on the power of New Castle County to perform quality control and make revisions and corrections relating to the assessed value of any tax parcel or parcels in its jurisdiction. In addition to the categories set forth in subsection (a) of this section, New Castle County may identify additional categories of tax parcels for quality control review where it appears that an error or mistake in valuation may have occurred.

(85 Del. Laws, c. 237, § 1.)

## Subchapter II

## Tax on Mobile Homes

### § 8351. Determining taxation value; frequency of reassessments; assessment rate.

Ad valorem assessments for mobile homes shall be developed in the same manner as real property and be predicated on their market value, taxed at the same rate as real property throughout the county and school district in which the mobile home is located and in the name of the owner. In instances where the land is leased, the land upon which the mobile home is located shall be separately assessed and shall not include the value of the mobile home located thereon. Mobile homes shall be reassessed at least every 5 years.

(14 Del. C. 1953, § 1930; 51 Del. Laws, c. 194, § 2; 53 Del. Laws, c. 340; 55 Del. Laws, c. 275, § 2; 60 Del. Laws, c. 584, § 1; 64 Del. Laws, c. 71, § 1; 84 Del. Laws, c. 412, § 25.)

### § 8352. Placement permit.

Every owner of a mobile home shall apply to the board of assessment for a placement permit for each mobile home owned by him or her within 60 days after the mobile home is acquired or moved into this State, whichever is sooner.

(14 Del. C. 1953, § 1931; 51 Del. Laws, c. 194, § 1; 55 Del. Laws, c. 275, § 2; 56 Del. Laws, c. 226, § 1; 64 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1.)

### § 8353. Park operators to give copy of law and application to owners.

Each mobile home park operator shall be furnished with copies of this subchapter and placement permit application forms and shall then be obliged to give a copy of this subchapter and a placement permit application to every mobile home owner who moves a mobile home into the operator's park, before the fifteenth day of the next succeeding month after placement.

(14 Del. C. 1953, § 1932; 51 Del. Laws, c. 194, § 2; 55 Del. Laws, c. 275, § 2; 56 Del. Laws, c. 226, § 2; 64 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1.)

### § 8354. Park operators to maintain lease records; annual report.

Mobile home park operators who lease land to 2 or more persons for parking mobile homes shall maintain a lease record which shall be open for inspection at all times by the county tax assessors. Before April 2 of each year, each such mobile home park operator shall report to the board of assessment in the county in which the operator's park is located the names and addresses of all persons having mobile homes on the operator's land.

(14 Del. C. 1963, § 1933; 51 Del. Laws, c. 194, § 2; 52 Del. Laws, c. 218; 53 Del. Laws, c. 340; 55 Del. Laws, c. 275, § 2; 64 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1.)

### § 8355. Assessments to be made in name of titleholder.

Mobile homes shall be assessed in the name of the person designated in the title of the mobile home, whether the title is issued by this State or by some other state.

(14 Del. C. 1953, § 1934; 51 Del. Laws, c. 194, § 2; 55 Del. Laws, c. 275, § 2; 64 Del. Laws, c. 71, § 1.)

### § 8356. Penalty for tax evasion by titleholder of mobile homes.

Any title owner of a mobile home who, after having received an official notice that a property tax has been assessed thereon, removes the mobile home from the county wherein the tax has been assessed in order to avoid the payment of the tax shall be fined not more than $50 or shall be imprisoned for not more than 10 days.

(14 Del. C. 1953, § 1935; 51 Del. Laws, c. 194, § 2; 55 Del. Laws, c. 275, § 2; 64 Del. Laws, c. 71, § 1.)

### § 8357. Penalty for park operators failing to submit report.

A mobile home park operator who, after written notice from the board of assessment, does not before April 2 in any year file the report required by § 8354 of this title shall be fined not more than $250.

(14 Del. C. 1953, § 1936; 55 Del. Laws, c. 275, § 2; 64 Del. Laws, c. 71, § 1; 71 Del. Laws, c. 401, § 98.)

### § 8358. Application of subchapter.

The tax imposed by this subchapter shall not apply:

(1) To unoccupied mobile homes located on a dealer's display lot; and

(2) To mobile homes bearing a current license tag of this State.

(14 Del. C. 1953, § 1937; 55 Del. Laws, c. 275, § 2; 64 Del. Laws, c. 71, § 1.)

### § 8359. Repeal of inconsistent laws.

All statutes of this State, or parts thereof, in conflict with this subchapter are repealed to the extent of such inconsistency.

(14 Del. C. 1953, § 1938; 55 Del. Laws, c. 275, § 2; 64 Del. Laws, c. 71, § 1.)

### § 8360. Mobile home dealers to furnish monthly reports.

Each mobile home dealer shall furnish to the Department of Land Use of New Castle County or the Board of Assessment for Kent County or the Board of Assessment for Sussex County a monthly report, by the fifteenth day of each month, indicating the following:

(1) Name and address of each purchaser from him or her of a mobile home during the previous month's period;

(2) Brand name, size, year and model of each such mobile home purchased;

(3) Gross selling price of each such mobile home purchased.

(14 Del. C. 1953, § 1939; 56 Del. Laws, c. 226, § 3; 64 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 99.)

### § 8361. Penalty for mobile home dealer failing to submit monthly report.

A mobile home dealer who fails to file the monthly report required by § 8360 of this title shall be fined not more than $250.

(14 Del. C. 1953, § 1940; 56 Del. Laws, c. 226, § 3; 64 Del. Laws, c. 71, § 1; 71 Del. Laws, c. 401, § 100.)

### § 8362. Penalty for mobile home owner failing to apply for a placement permit.

A mobile home owner who fails to apply for a placement permit required by § 8352 of this title shall be fined not more than $200.

(14 Del. C. 1953, § 1941; 56 Del. Laws, c. 226, § 3; 64 Del. Laws, c. 71, § 1.)

### § 8363. Mobile homes owned by residents over 65 years of age.

A resident of Delaware, as defined by § 8131 of this title over the age of 65 and having an income not in excess of $3,000 per year, may apply for a waiver of tax on a mobile home, to an assessed valuation not exceeding as established by County Council, in which said person resides and which said person owns, except that: (1) No such exemption shall be in addition to any other exemption to which

said person may be entitled, and (2) no such exemption shall be permitted where said person's spouse lives in said mobile home and has an income in excess of $3,000 per year. This waiver may be applied for on forms prescribed by the Department of Land Use of New Castle County or the Board of Assessment for Kent County or the Board of Assessment for Sussex County and provided for the use of the claimants hereunder by the governing body of the taxing district in which such claim is to be filed. Upon verification of the taxpayer's claim, the above-mentioned assessment offices shall issue an annual numbered waiver in triplicate. One copy shall be given to the owner of the mobile home, 1 copy shall be mailed to the operator of a mobile home park in which the trailer is domiciled and the third copy shall be retained and filed by the above-mentioned assessment offices. The operator of the mobile home park, upon making the monthly report and tax payments, shall note the name and waiver number of those residents who qualify for this tax exemption.

(14 Del. C. 1953, § 1942; 56 Del. Laws, c. 226, § 3; 64 Del. Laws, c. 71, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 101.)

## § 8364. Appeals and corrections upon completion of annual assessment.

Any mobile home owner who feels aggrieved by the assessment shall have the right of appeal as provided by §§ 8311 and 8312 of this title.

(14 Del. C. 1953, § 1943; 56 Del. Laws, c. 226, § 3; 64 Del. Laws, c. 71, § 1.)

# Part V
# County Taxes
## Chapter 84
## Receivers of Taxes and County Treasurers
## Subchapter I
## General Provisions

### §§ 8401-8404. Election; term of office; qualifications; bond; oath of office; vacancies [Repealed].

Repealed by 77 Del. Laws, c. 247, § 7.

### § 8405. Compensation.

In Kent County, the Receiver of Taxes and County Treasurer of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court.

(19 Del. Laws, c. 26, § 20; 19 Del. Laws, c. 562, § 4; 20 Del. Laws, App. p. 2, § 1; 20 Del. Laws, App. p. 13, § 36; 21 Del. Laws, c. 31, § 4; Code 1915, § 1179; 28 Del. Laws, c. 82, § 15; 33 Del. Laws, c. 84, § 10; 37 Del. Laws, c. 105, § 3; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1372, 1407, 1440; 45 Del. Laws, c. 127, §§ 1, 2; 46 Del. Laws, c. 298, § 1; 9 Del. C. 1953, § 8405; 50 Del. Laws, c. 148, § 1; 50 Del. Laws, c. 541, § 1; 50 Del. Laws, c. 581, § 1; 52 Del. Laws, c. 174, § 5; 53 Del. Laws, c. 222, § 1; 54 Del. Laws, c. 23, § 6; 54 Del. Laws, c. 215, § 1; 55 Del. Laws, c. 85, § 23G; 57 Del. Laws, c. 692, § 3; 57 Del. Laws, c. 762, § 22F; 61 Del. Laws, c. 506, § 2; 65 Del. Laws, c. 163, § 4; 67 Del. Laws, c. 255, § 2.)

### §§ 8406, 8407. Deputies and employees; employment; compensation; expenses of sitting in various districts [Repealed].

Repealed by 77 Del. Laws, c. 247, § 7.

### § 8408. Duty to turn over records and moneys to successor.

(a) All records, books, papers, stubs, accounts, of whatever kind or character, appertaining to the office of receiver of taxes and county treasurer, shall belong to the county and upon the expiration of the term of office of any receiver of taxes and county treasurer, he or she shall turn over the same to his or her successor, or to the county government, together with all public moneys in his or her hands.

(b) Any receiver of taxes and county treasurer who, upon demand made, fails to comply with the provisions of this section shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(Code 1852, § 242; Code 1915, § 1235; 28 Del. Laws, c. 82, § 35; 33 Del. Laws, c. 84, § 30; Code 1935, §§ 1427, 1460, 1468; 9 Del. C. 1953, § 8408; 70 Del. Laws, c. 186, § 1.)

## Subchapter II
## Duties

### § 8421. Responsibility for collection of all taxes.

(a) The receiver of taxes and county treasurer or director of finance shall, upon the delivery to him or her of the tax duplicates and warrant as provided by law, be responsible for the whole amount of the taxes he or she shall be required to collect, or that shall be committed to him or her for collection, subject only to allowances made by the county government.

(b) The procedure for collection of taxes shall be as provided in this title.

(Code 1915, § 1150; 28 Del. Laws, c. 82, § 7; 33 Del. Laws, c. 84, § 3; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1346, 1400, 1433; 9 Del. C. 1953, § 8421; 70 Del. Laws, c. 186, § 1.)

### § 8422. Collection of school taxes.

The receiver of taxes and county treasurer or director of finance for each county shall collect all school taxes assessed and levied therein except as otherwise provided by law.

(Code 1935, § 1146; 28 Del. Laws, c. 82, § 5; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1342, 1431; 9 Del. C. 1953, § 8422; 50 Del. Laws, c. 79, § 1; 53 Del. Laws, c. 49; 60 Del. Laws, c. 468, § 11.)

### § 8423. Collection of capitation tax.

The receiver of taxes and county treasurer or director of finance shall have the same power to enforce the payment of the capitation tax as he or she has for the collection of county taxes.

(21 Del. Laws, c. 23, § 3; Code 1915, § 1243; Code 1935, § 1474; 9 Del. C. 1953, § 8423; 70 Del. Laws, c. 186, § 1.)

### § 8424. Duty to collect taxes within 1 year from date of warrant.

(a) Except as otherwise provided, the receiver of taxes and county treasurer or director of finance shall collect and pay to the county all taxes on the duplicates delivered to him or her within 1 year next after the date of the warrant attached to the tax duplicates. He or

she shall each week carry the funds collected by him or her to the credit of the county, or to the credit of such county fund as the county government shall direct.

(b) If the receiver of taxes and county treasurer or director of finance fails, in any year, to make full and complete settlement with the county for the taxes which it is his or her duty to collect, excepting such allowance as may be made to him or her, his or her salary as such officer shall be withheld and he or she shall not be entitled to accept or receive any salary or other compensation until such full and final settlement be made.

(28 Del. Laws, c. 82, § 12; 33 Del. Laws, c. 84, § 8; 38 Del. Laws, c. 78, § 1; Code 1935, §§ 1405, 1438; 9 Del. C. 1953, § 8424; 70 Del. Laws, c. 186, § 1.)

## § 8425. Certificate before final settlement.

(a) Before making final settlement with the receiver of taxes and county treasurer or director of finance, the county government of each county shall require such officer to make oath or affirmation that the list of uncollected taxes made out and returned by him or her is true in all its statements to the best of his or her knowledge and belief, and that no tax has been collected from any person so returned by him or her.

(b) The oath may be administered by the clerk of the county government or by any member thereof. Any receiver of taxes and county treasurer or director of finance, who swears falsely as to any matter to which he or she may be required to make oath by this section, shall be punished as the law directs for false swearing.

(Code 1915, § 1071C; 28 Del. Laws, c. 76, § 16; 31 Del. Laws, c. 13, § 24; Code 1935, § 1242; 9 Del. C. 1953, § 8425; 70 Del. Laws, c. 186, § 1.)

## § 8426. Annual settlement.

(a) Each year the county governments shall make full, final and complete settlement with the receiver of taxes and county treasurer or director of finance, allowing to them all taxes which shall have been found impossible to collect by reason of errors in the assessment lists or otherwise, and not through their default, neglect or delay, which settlement shall be final and conclusive. No other allowance in any form or guise shall be made to the receiver of taxes and county treasurer or director of finance by the county governments.

(b) Such settlements in Kent County shall be made during the month of June.

(Code 1915, §§ 1071C, 1182; 28 Del. Laws, c. 76, § 16; 28 Del. Laws, c. 82, § 13; 31 Del. Laws, c. 13, § 24; 33 Del. Laws, c. 84, § 9; 38 Del. Laws, c. 78, § 9; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1240, 1375, 1406, 1439; 9 Del. C. 1953, § 8426; 55 Del. Laws, c. 85, § 23H; 57 Del. Laws, c. 762, § 22H.)

## § 8427. Deposit of funds.

The receiver of taxes and county treasurer or director of finance shall deposit in any depository bank or credit union in the State at the county seat, to the credit of the county, all public money received, within 3 days of the receipt thereof. The same shall remain therein, unless determined by the county government to be idle or surplus and thereupon by order or authorization invested in accordance with § 4122 of this title, or until drawn in payment of legal demands, or in the transfer thereof to a successor.

(Code 1852, § 243; 14 Del. Laws, c. 373, § 1; 19 Del. Laws, c. 26, § 15; Code 1915, §§ 1212, 1236; Code 1935, §§ 1380, 1469; 9 Del. C. 1953, § 8427; 59 Del. Laws, c. 345, § 3; 62 Del. Laws, c. 152, § 2; 70 Del. Laws, c. 186, § 1; 85 Del. Laws, c. 257, § 1.)

## § 8428. Custodian of county funds; duty to demand and receive moneys.

The receiver of taxes and county treasurer or director of finance shall have the custody of the funds of his or her county and shall demand and receive all moneys which the government of his or her county may cause to be raised for the use of the county, whether by taxation, or by loan, or otherwise.

(Code 1852, §§ 231, 233; Code 1915, § 1228; Code 1935, § 1461; 9 Del. C. 1953, § 8428; 70 Del. Laws, c. 186, § 1.)

## § 8429. Payments of witness and juror fees.

(a) The State Treasurer shall pay fees, on demand, to witnesses on behalf of the State, and also to witnesses on behalf of a party who is accused of a crime or misdemeanor but is acquitted, upon the production of a certificate therefor from the Prothonotary of his or her county; and to witnesses subpoenaed for an indigent defendant, by the order of the Superior Court or any Judge thereof, pursuant to rules of that Court adopted under authority of law.

(b) The State Treasurer shall also pay jurors as provided by Chapter 45 of Title 10.

(Code 1852, §§ 240, 245; 16 Del. Laws, c. 551, § 1; Code 1915, § 1232; Code 1935, § 1465; 9 Del. C. 1953, § 8429; 55 Del. Laws, c. 85, § 23H(1); 57 Del. Laws, c. 452, § 3; 70 Del. Laws, c. 186, § 1.)

## § 8430. Application of moneys received; accounting.

The receiver of taxes and county treasurer or director of finance shall apply all money received by him or her for the use of his or her county, to discharging allowances, orders or warrants of the county government and fees of witnesses and jurors, chargeable against the county. Any surplus shall be kept subject to the order of the county government. He or she shall keep an account of all such allowances,

orders or warrants, and also a separate account of all his or her receipts and disbursements, and lay the same before the county government, or a committee thereof, at such times and as often as the county government shall direct and as provided by law.

(Code 1852, §§ 234-236; 24 Del. Laws, c. 55, § 1; Code 1915, § 1229; Code 1935, § 1462; 9 Del. C. 1953, § 8430; 70 Del. Laws, c. 186, § 1.)

## § 8431. Withholding of allowances to officers.

The receiver of taxes and county treasurer or director of finance shall withhold payment of any allowances, made by the county government, in favor of any officer whose duty it is to collect or pay over to the State Treasurer any fine or forfeiture, until such officer shall produce a certificate from such Treasurer, that there is no charge against him or her on his or her official books.

(Code 1852, § 241; Code 1915, § 1234; Code 1935, § 1467; 9 Del. C. 1953, § 8431; 70 Del. Laws, c. 186, § 1.)

## § 8432. Power to require assistance in New Castle County.

The Director of Finance for New Castle County shall have the same right to require the aid or assistance of the person or persons, in the performance of the Director's duties, which a sheriff has by law.

(20 Del. Laws, App. p. 11, § 31; Code 1915, § 1171; 40 Del. Laws, c. 135, § 1; Code 1935, § 1364; 9 Del. C. 1953, § 8434; 55 Del. Laws, c. 85, § 23H(2); 70 Del. Laws, c. 186, § 1.)

## § 8433. Duties and liability of retiring officers with respect to uncollected taxes.

(a) The receiver of taxes and county treasurer or director of finance, upon the expiration of his or her term of office, shall retain, have and possess, all and the same rights, powers and remedies, and be subject to all and the same duties, obligations, responsibilities and penalties, with respect to the collection of all taxes remaining outstanding and uncollected on his or her tax duplicates and warrants for any years during his or her term of office, as is provided by law with respect to an incumbent receiver of taxes and county treasurer or director of finance. In any legal proceeding for the collection of any of the outstanding and uncollected taxes, or in any proceeding against the receiver of taxes or director of finance or his or her surety, it shall be no objection to any such proceeding that the term of office of the receiver of taxes or director of finance has previously expired.

(b) The retiring receiver of taxes and county treasurer or director of finance shall occupy jointly with the incoming receiver of taxes and county treasurer or director of finance the tax office at the county courthouse until such time as the retiring receiver of taxes or director of finance has duly collected all of the taxes remaining outstanding and uncollected on his or her tax duplicates and warrants, and until such time and in such manner as the county government directs.

(c) The clerks authorized by law for the receiver of taxes and county treasurer or director of finance shall also serve as clerks for the retiring receiver of taxes, if the latter shall so request, without additional compensation and for such time as the county government directs. The retiring receiver of taxes or director of finance shall be responsible under his or her bond for any and all neglects and defaults of any of the said clerks and may require any such clerk to enter into a bond with surety for the faithful performance of his or her duties in the manner that clerks are required to give bond to the receiver of taxes and county treasurer or director of finance.

(d) The county government may settle any dispute that arises between the receiver of taxes and county treasurer or director of finance and the retiring receiver of taxes or director of finance, or between either or both of the officers and any or all of the clerks, and to withhold the salary or compensation of any of the officers or clerks until such time as any such dispute has been fully settled.

(e) Nothing in this section shall be construed to relieve the retiring receiver of taxes or director of finance or his or her surety from any responsibility whatever under the bond provided for by law for such officer, but the bond shall remain in full force and effect after the expiration of his or her term of office, and until he or she has fully accounted for all taxes remaining outstanding and uncollected on his or her tax duplicates and warrants, and until released by the county government after such full accounting as provided by law.

(20 Del. Laws, c. 288, § 6; 27 Del. Laws, c. 57; Code 1915, § 1151; 37 Del. Laws, c. 105, § 6; Code 1935, §§ 1347, 1428; 9 Del. C. 1953, § 8435; 70 Del. Laws, c. 186, § 1.)

## § 8434. Collection of delinquent taxes by receiver of taxes and county treasurer or director of finance for own use after personally paying same; extension and assignment of liens.

(a) If any receiver of taxes and county treasurer or director of finance, or outgoing receiver of taxes and county treasurer or director of finance, is unable, within 1 year from the date of the duplicate and warrant, to collect the tax of any taxable, he or she may, having first paid the amount thereof to the credit of the county, collect the tax from such taxable for his or her own use and benefit by any of the processes of law prescribed in this part, within the space of 1 further year. The further year shall commence upon the day of the expiration of the year beginning upon the date of the warrant and duplicate, after which time the tax shall be extinguished unless the lien of the tax is extended.

(b) In case any receiver of taxes and county treasurer or director of finance, or any outgoing receiver of taxes and county treasurer or director of finance, causes the lien of any tax to be extended and is compelled to pay the amount thereof to the credit of the county, the county government shall assign the lien or mark it to the use of such receiver of taxes and county treasurer or director of finance, and he or she may proceed thereon for its enforcement in the name of the State to and for his or her use.

(28 Del. Laws, c. 82, § 34; 33 Del. Laws, c. 84, § 29; Code 1935, §§ 1426, 1459; 9 Del. C. 1953, § 8436; 70 Del. Laws, c. 186, § 1.)

## § 8435. Destruction of canceled bonds and coupons.

The Director of Finance for New Castle County may destroy any paid off, matured, redeemed, called or canceled bills and coupons issued by New Castle County which he or she deems advisable. The destruction and cremation of bonds and coupons shall be witnessed by the President of the county government and the County Auditor, and said witnesses shall execute a certificate of destruction of said bonds and coupons, which shall be retained by the Director of Finance of New Castle County.

(9 Del. C. 1953, § 8437; 52 Del. Laws, c. 219; 55 Del. Laws, c. 85, § 23H(3); 63 Del. Laws, c. 142, § 26; 70 Del. Laws, c. 186, § 1.)

# Part V
# County Taxes
## Chapter 86
## Collection of Taxes

### § 8601. Due date for real estate and capitation taxes.

All taxes assessed and levied shall be due and payable each year:

(1) In New Castle County, on July 1;

(2) In Kent County, on June 1;

(3) In Sussex County, on July 1.

(38 Del. Laws, c. 78, § 1; Code 1935, §§ 1409, 1442; 9 Del. C. 1953, § 8601; 78 Del. Laws, c. 11, § 1.)

### § 8602. Notice to taxables of taxes due; effect of failure to receive notice.

(a) For purposes of this chapter and Chapter 87 of this title, the term "tax collecting authority" shall refer, in New Castle County, to the Chief Financial Officer; in Kent County, to the Receiver of Taxes and County Treasurer; and in Sussex County, to the Director of Finance.

(b) The tax collecting authority of each county shall mail to all taxables in the county a statement of their taxes collectible by that county not more than 30 days after the taxes are due and payable.

(c) The failure of the rightful owner of any property to receive a statement of taxes by mail from the tax collecting authority shall not relieve the taxable from the obligation of timely payment of any and all taxes due.

(42 Del. Laws, c. 112, § 1; 9 Del. C. 1953, § 8602; 55 Del. Laws, c. 85, § 24A; 71 Del. Laws, c. 401, § 102.)

### § 8603. Tax payments.

The receiver of taxes and county treasurer or director of finance of any county may accept payment of all taxes due and payable on real estate on a quarterly or more frequent basis.

(38 Del. Laws, c. 77, § 1; Code 1935, § 1475; 42 Del. Laws, c. 109, § 1; 9 Del. C. 1953, § 8603; 55 Del. Laws, c. 85, § 24A; 71 Del. Laws, c. 401, § 103; 85 Del. Laws, c. 134, § 5.)

### § 8604. Abatement of taxes; penalty for the late payment; removal of delinquent real estate taxes from tax roll; payment plan for taxes [Effective until Aug. 12, 2028].

(a) (1) The tax collecting authority of New Castle County shall, after September 1 in the year in which annual taxes become due and payable, add thereto a penalty of 6 percent of the current charge and 1 percent of the unpaid principal balance as of the first day of every month thereafter until the same shall be paid. Penalty shall accrue at the same rate on any supplemental tax bill issued pursuant to § 8340 of this title, beginning on the first day of the third month from the date upon which the tax liability became due and payable.

(2) In Kent County and in Sussex County the tax collecting authority shall, after September 30 in the year in which the tax duplicate shall be delivered to the authority, add to taxes to be paid thereafter a penalty of 1.5 percent per month until the same shall be paid.

(b) The tax collecting authority of each county is authorized to remove from the tax roll the amount of any taxes assessed against real estate that do not constitute a lien against such real estate pursuant to § 8705 of this title.

(c) (1) The tax collecting authority of each county, upon being authorized by ordinance adopted by County Council or Levy Court, may allow an abatement of or discount upon any tax or penalty for late payment, exclusive of school taxes, required to be collected by them.

(2) Notwithstanding paragraph (c)(1) of this section, The tax collecting authority of each county shall waive any penalty for late payment of county taxes, school taxes, or both for any residential taxpayer who enters into and complies with a payment plan under subsection (d) of this section.

(d) (1) The tax collecting authority of each county shall allow a taxpayer to enter into a payment plan for the payment of county taxes, school taxes, or both if all of the following conditions are met:

a. The property is zoned for residential use and is the primary residence of the taxpayer.

b. The taxpayer's property tax bill exceeds the immediately preceding year's property tax bill by $300 or more.

(2) A payment plan under this subsection must allow the taxpayer to submit payment of school taxes to the county in at least 3 equal installments and provide that if payments are timely made the taxpayer will not be charged any interest, penalty, or late fee.

(3) A county may set additional eligibility and administrative criteria for a payment plan under this subsection, so long as the criteria are not unduly restrictive or burdensome.

(4) In the event of a cash flow shortfall of local school funds due to taxpayers in a school district entering payment plans under this subsection, the school district may request, and the State may advance, moneys from State Division I funds.

(20 Del. Laws, App. p. 12, § 35; 24 Del. Laws, c. 60, § 1; 27 Del. Laws, c. 58; Code 1915, § 1174; 28 Del. Laws, c. 82, § 31; 29 Del. Laws, c. 74, § 1; 33 Del. Laws, c. 84, § 26; Code 1935, §§ 1367, 1423, 1456; 45 Del. Laws, c. 128, § 4; 9 Del. C. 1953, §

8604; 55 Del. Laws, c. 56; 60 Del. Laws, c. 106, § 1; 60 Del. Laws, c. 424, §§ 1, 2; 61 Del. Laws, c. 460, §§ 1, 2; 65 Del. Laws, c. 59, § 1; 65 Del. Laws, c. 300, §§ 1, 2; 68 Del. Laws, c. 167, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 104; 85 Del. Laws, c. 134, § 2.)

## § 8604. Abatement of taxes; penalty for the late payment; removal of delinquent real estate taxes from tax roll [Effective Aug. 12, 2028].

(a) (1) The tax collecting authority of New Castle County shall, after September 1 in the year in which annual taxes become due and payable, add thereto a penalty of 6% of the current charge and 1% of the unpaid principal balance as of the first day of every month thereafter until the same shall be paid. Penalty shall accrue at the same rate on any supplemental tax bill issued pursuant to § 8340 of this title, beginning on the first day of the third month from the date upon which the tax liability became due and payable.

(2) In Kent County and in Sussex County the tax collecting authority shall, after September 30 in the year in which the tax duplicate shall be delivered to the authority, add to taxes to be paid thereafter a penalty of 1.5% per month until the same shall be paid.

(b) The tax collecting authority of each county is authorized to remove from the tax roll the amount of any taxes assessed against real estate that do not constitute a lien against such real estate pursuant to § 8705 of this title.

(c) (1) The tax collecting authority of each county, upon being authorized by ordinance adopted by County Council or Levy Court, may allow an abatement of or discount upon any tax or penalty for late payment, exclusive of school taxes, required to be collected by them.

(2) [Repealed.]

(d) [Repealed.]

(20 Del. Laws, App. p. 12, § 35; 24 Del. Laws, c. 60, § 1; 27 Del. Laws, c. 58; Code 1915, § 1174; 28 Del. Laws, c. 82, § 31; 29 Del. Laws, c. 74, § 1; 33 Del. Laws, c. 84, § 26; Code 1935, §§ 1367, 1423, 1456; 45 Del. Laws, c. 128, § 4; 9 Del. C. 1953, § 8604; 55 Del. Laws, c. 56; 60 Del. Laws, c. 106, § 1; 60 Del. Laws, c. 424, §§ 1, 2; 61 Del. Laws, c. 460, §§ 1, 2; 65 Del. Laws, c. 59, § 1; 65 Del. Laws, c. 300, §§ 1, 2; 68 Del. Laws, c. 167, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 104; 85 Del. Laws, c. 134, § 2; 85 Del. Laws, c. 134, § 6.)

## § 8605. Collection at offices of tax collecting authority; hours.

Each tax collecting authority shall be present, either in person or by deputy, at a designated county office every day, except Sundays, Saturdays and legal holidays, during the usual hours of business, for the purpose of receiving taxes collectible by the County.

(20 Del. Laws, App. p. 4, § 4; 21 Del. Laws, c. 192, § 1; 23 Del. Laws, c. 52, § 1; Code 1915, § 1148; 28 Del. Laws, c. 82, § 9; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1344, 1402, 1435; 9 Del. C. 1953, § 8605; 55 Del. Laws, c. 85, § 24A; 71 Del. Laws, c. 401, § 105.)

## § 8606. Notice of time and place for collection in hundreds and districts.

Each receiver of taxes and county treasurer shall give notice of the times when and places where such person or such person's deputy shall sit to collect taxes in at least 1 newspaper published at such person's county seat and in newspapers in the various hundreds or districts if there be any. This section shall not apply with respect to New Castle County.

(20 Del. Laws, App. p. 4, § 4; 23 Del. Laws, c. 52, § 1; Code 1915, § 1148; 28 Del. Laws, c. 82, § 10; 33 Del. Laws, c. 84, § 6; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1344, 1403, 1436; 9 Del. C. 1953, § 8607; 65 Del. Laws, c. 315, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 106.)

## § 8607. Bills and receipts; New Castle County.

(a) Each year the Office of Finance for New Castle County shall prepare tax bills showing the amount of tax due. Such bill shall show the amount of tax levied on each parcel of real estate or that the taxes cover several parcels and shall describe each parcel according to the description thereof appearing upon the assessment list.

(b) The Office of Finance for New Castle County may at any time after the duplicates of the assessment lists are delivered to it, prepare the necessary receipts for any or all taxables appearing on the duplicate, omitting the signing and sealing of the receipts so that upon payment of any tax by any taxable, a proper receipt therefor may be furnished without unnecessary delay, which receipt when delivered upon the payment of taxes shall show the amount of the assessment, distinguishing real, and capitation assessments, and the rate of taxes payable to the County and the discount or additional percentage as the case may be, on the payments. Each receipt shall have a corresponding stub and the Office of Finance shall make the same entries on the stub attached to each receipt as are contained in each receipt.

(17 Del. Laws, c. 23, § 1; 20 Del. Laws, App. p. 3, § 3; 21 Del. Laws, c. 31, § 2; 23 Del. Laws, c. 52, § 2; Code 1915, §§ 1147, 1183; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1343, 1376; 42 Del. Laws, c. 109, § 1; 9 Del. C. 1953, § 8608; 55 Del. Laws, c. 85, § 24B; 71 Del. Laws, c. 401, §§ 107, 108.)

## § 8608. Receipts and receipt books; Kent County.

The Receiver of Taxes and County Treasurer in Kent County shall have prepared for each representative district a book of receipts, numbered serially, which receipts, when delivered upon the payment of taxes, shall show the amount of assessment, distinguishing real

assessment and capitation tax, and showing the rate or rates of taxes and any penalty imposed, if any there be, and the year of such tax, and each receipt shall have a corresponding stub which shall be retained in the book.

(28 Del. Laws, c. 82, § 8; 33 Del. Laws, c. 84, § 4; Code 1935, §§ 1401, 1434; 9 Del. C. 1953, § 8609.)

## § 8609. Duplicate receipts.

Upon the personal application of any taxable whose tax has been paid, a duplicate receipt shall be given for the applicant's taxes upon its being shown that the receipt for such taxes has been lost, mislaid or destroyed, or in the possession of some person unknown to the applicant, or if known, who refuses to deliver the same; such receipt and its corresponding stub shall be plainly stamped with the word "duplicate." This section shall not apply with respect to New Castle County.

(19 Del. Laws, c. 26, § 10; Code 1915, § 1175; Code 1935, § 1368; 9 Del. C. 1953, § 8610; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 109.)

## § 8610. Written demand for delinquent taxes in New Castle County [Effective until Aug. 12, 2028].

(a) The Office of Finance for New Castle County shall on or before December 15 of each year, make at least 1 demand in writing upon every person or corporation liable for the payment of any taxes collectible by the County and due and then remaining unpaid for the payment thereof, stating the amount due and that, if the same are not paid during the month of December, legal proceedings will be instituted for the collection thereof. The failure to give notice shall not constitute a bar to any of the proceedings hereinafter authorized and directed. The notice shall be mailed in a sealed postpaid envelope directed to the last known address of the person or corporation, and the day of the mailing shall be deemed the day of the giving of notice.

(b) The Office of Finance for New Castle County is not required to send the written demand under subsection (a) of this section if the taxpayer has entered a payment plan authorized under § 8604 of this title or any other law.

(Code 1915, § 1154; 40 Del. Laws, c. 135, § 1; Code 1935, § 1350; 9 Del. C. 1953, § 8611; 55 Del. Laws, c. 85, § 24B; 71 Del. Laws, c. 401, § 110; 85 Del. Laws, c. 134, § 3.)

## § 8610. Written demand for delinquent taxes in New Castle County [Effective Aug. 12, 2028].

(a) The Office of Finance for New Castle County shall on or before December 15 of each year, make at least 1 demand in writing upon every person or corporation liable for the payment of any taxes collectible by the County and due and then remaining unpaid for the payment thereof, stating the amount due and that, if the same are not paid during the month of December, legal proceedings will be instituted for the collection thereof. The failure to give notice shall not constitute a bar to any of the proceedings hereinafter authorized and directed. The notice shall be mailed in a sealed postpaid envelope directed to the last known address of the person or corporation, and the day of the mailing shall be deemed the day of the giving of notice.

(b) [Repealed.]

(Code 1915, § 1154; 40 Del. Laws, c. 135, § 1; Code 1935, § 1350; 9 Del. C. 1953, § 8611; 55 Del. Laws, c. 85, § 24B; 71 Del. Laws, c. 401, § 110; 85 Del. Laws, c. 134, § 3; 85 Del. Laws, c. 134, § 6.)

## § 8611. Publication of delinquent taxes; Kent County.

The Receiver of Taxes and County Treasurer in Kent County shall post in 2 public places of each representative district of the County a list of the taxables of the district whose taxes it has been impossible to collect, stating therein in each case the reason why it has been impossible to collect such tax. Such posting shall be at least 1 week prior to the settlement by the county government with the Receiver of Taxes and County Treasurer.

(Code 1915, § 1071C; 28 Del. Laws, c. 76, § 16; 28 Del. Laws, c. 82, § 13; 30 Del. Laws, c. 82, § 2; 31 Del. Laws, c. 13, § 24; 33 Del. Laws, c. 84, § 9; 38 Del. Laws, c. 78, § 1; Code 1935, §§ 1241, 1406, 1439; 48 Del. Laws, c. 241, §§ 1, 2; 48 Del. Laws, c. 242, § 1; 9 Del. C. 1953, § 8612.)

## § 8612. Liability between landlord and tenant.

The person holding the ground at the time of the assessment shall be chargeable with and pay the sum rated to the person entitled to the rent, and may deduct the same out of the rent, unless it is otherwise agreed between himself or herself and the person entitled to such rent; but if the former cannot be found the latter shall be chargeable with and shall pay it.

(Code 1852, § 161; Code 1915, § 1127; Code 1935, §§ 1273, 1310, 1329; 9 Del. C. 1953, § 8613; 70 Del. Laws, c. 186, § 1.)

## § 8613. Liability of tenant for life.

In the case of life estates, the interest of the tenant for life shall first be liable for the taxes.

(Code 1915, § 1153; 33 Del. Laws, c. 82, § 3; Code 1935, § 1349; 9 Del. C. 1953, § 8614.)

## § 8614. Officials conducting sale of property to notify receiver; pay tax.

Every sheriff, constable, trustee in bankruptcy, or trustee or receiver appointed by any decree of any court of this State or elsewhere, or any landlord or bailiff in any distraint proceedings for the recovery of rent, who shall make sale of any property, real or personal, shall deliver to the tax collecting authority, a copy of the advertisement of sale 10 days before the date fixed therefor, and upon demand

made by the tax collecting authority, the officer conducting the sale shall withhold the amount of the tax and pay the same to the tax collecting authority.

(28 Del. Laws, c. 82, § 29; 33 Del. Laws, c. 84, § 24; Code 1935, §§ 1421, 1454; 9 Del. C. 1953, § 8615; 55 Del. Laws, c. 85, § 24A; 71 Del. Laws, c. 401, § 111.)

## § 8615. Penalties for fraudulent tax receipts.

If any receiver of taxes and county treasurer or director of finance gives a receipt for an extinguished tax, or fraudulently antedates or postdates any tax receipt, or uses any other fraud in giving the same, such person shall be fined $100, and further shall forfeit and pay $100 to any person who will sue therefor. This section shall not apply with respect to New Castle County.

(19 Del. Laws, c. 26, § 11; Code 1915, § 1176; 40 Del. Laws, c. 135, § 1; Code 1935, § 1369; 9 Del. C. 1953, § 8616; 55 Del. Laws, c. 85, § 24A; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 112.)

## § 8616. Removal from county to escape tax; penalty.

If any taxable of any county removes from the county with intent to escape payment of any tax due, he or she shall be liable in any action brought before a justice of the peace for the recovery of such tax, to double the amount thereof.

(28 Del. Laws, c. 82, § 33; 33 Del. Laws, c. 84, § 28; Code 1935, §§ 1425, 1458; 9 Del. C. 1953, § 8617; 70 Del. Laws, c. 186, § 1.)

## § 8617. County warrants not acceptable for payment.

No Receiver of Taxes and County Treasurer in Kent County shall accept county warrants of any form or kind in payment of taxes.

(28 Del. Laws, c. 82, § 32; 33 Del. Laws, c. 84, § 27; Code 1935, §§ 1424, 1457; 9 Del. C. 1953, § 8618.)

## § 8618. Refund of county taxes paid in error; refund after assessment appeal.

(a) County taxes paid through error or by mistake may be refunded by the county government of the county in which the taxes were paid as follows:

(1) The person claiming a refund of taxes shall file with the county government a request for refund in writing stating why it is believed the taxes were paid in error;

(2) The county government shall submit the request for refund to the tax collecting authority of the county for approval of the payment of the refund, and shall make no refund unless the tax collecting authority approves the refund in writing;

(3) The county government shall keep a record of all refunds for at least 3 years, which record shall be available in accordance with the State Freedom of Information Act [§ 10001 et seq. of Title 29].

(b) County taxes determined to be overpaid after an assessment appeal by a taxpayer shall be refunded or credited in accordance with § 8311 of this title.

(9 Del. C. 1953, § 8619; 54 Del. Laws, c. 314; 71 Del. Laws, c. 401, § 113; 85 Del. Laws, c. 133, § 2.)

## § 8619. Quarterly property tax reporting; New Castle County [Expires effective Jan. 1, 2028].

(a) Beginning September 30, 2025, and collecting data starting with the quarter beginning July 1, 2025, the tax collecting authority of New Castle County shall prepare a report not later than 30 days after March 31, June 30, September 30, and December 31 of each year containing all of the following information for each reporting quarter:

(1) Each property parcel enrolled in a tax payment plan, including all of the following:

a. The parcel identification number.

b. The parcel classification.

c. The total amount of taxes owed under the payment plan.

d. Whether the property owner is current or delinquent with the payment plan.

(2) Data relating to property assessment appeals, including all of the following:

a. The number of property assessment appeals filed, itemized by zip code.

b. The number of successful appeals.

c. The number of dismissed appeals.

(3) For each property parcel for which a realty transfer tax return is filed, the amount of the full consideration listed and the assessed value, itemized by zip code.

(4) The total amount of property tax revenue collected and distributed to each school district within the county, itemized by school district.

(b) Beginning September 30, 2025, and collecting data starting with the quarter beginning July 1, 2025, the tax collecting authority of New Castle County may include within the report required under subsection (a) of this section each property parcel that has a tax lien against the property parcel, including all of the following:

(1) The parcel identification number.

(2) The parcel classification.

(3) The amount of the lien.

(4) The date the lien was filed.

(c) The tax collecting authority of New Castle County shall submit the report prepared under subsection (a) of this section to all of the following:

(1) The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

(2) The Speaker and the Chief Clerk of the House of Representatives, for distribution to all Representatives.

(3) The Governor.

(4) The Director of the Office of Management and Budget.

(5) The Secretary of the Department of Finance.

(6) The Director and Librarian of the Division of Legislative Services.

(85 Del. Laws, c. 136, § 1.)

# Part V
# County Taxes
## Chapter 87
## Collection of Delinquent Taxes
## Subchapter I
## General Provisions

### § 8701. Collection permitted from personal property or real property.

(a) If any person is assessed for several parcels of land and tenements, in the same tax assessment, the total of said person's taxes, if not paid when due, may be collected out of the personal property, or out of the whole or any part or portion of the lands and tenements.

(b) Land alienated by the taxable shall not be sold until other property of the taxable shall have been disposed of.

(c) If the tax be paid on land alienated, the lien of the tax thereon shall be discharged.

(d) (1) Notwithstanding subsection (a) of this section or any other Delaware or county law to the contrary, if a taxpayer enters into a payment plan authorized under § 8604(d) of this title or any other law and complies with the payment plan, New Castle County's tax collecting authority may not collect the taxes owed out of the taxpayer's real or personal property, including by doing any of the following:

a. Filing a civil action.

b. Garnishing a taxpayer's wages.

c. Seizing the taxpayer's real or personal property.

d. Issuing a monition.

e. Filing for a writ of venditioni exponas.

f. Instituting attachment proceedings under subchapter III, Chapter 87 of this title.

g. Selling the taxpayer's real or personal property through a sheriff sale or any other legal proceeding.

h. Filing an action to collect on a tax lien.

(2) This subsection applies to New Castle County taxes and school taxes assessed on residential property for the 2025-2026 tax year.

(28 Del. Laws, c. 82, § 27; 33 Del. Laws, c. 84, § 22; Code 1935, §§ 1419, 1452; 42 Del. Laws, c. 109, § 1; 9 Del. C. 1953, § 8701; 85 Del. Laws, c. 134, § 4.)

### § 8702. Proceedings against guardian or trustee.

Any proceedings authorized herein may be brought against the guardian or trustee of the owner of any property and any judgment recovered against the guardian or trustee shall be binding upon the real and personal estate belonging to the person he or she represents. Any person who owns or has any interest in any real estate upon which county taxes have been levied and is under the disability of infancy or incompetency of mind and does not have a guardian or trustee may be made a party defendant in any proceeding, and a guardian ad litem or trustee ad litem upon the bringing of the proceedings shall be appointed by the Superior Court or the Court of Common Pleas or by the justice of the peace upon the petition of the plaintiff in the proceeding.

(33 Del. Laws, c. 82, § 19; Code 1915, § 1169; Code 1935, § 1362; 9 Del. C. 1953, § 8702; 70 Del. Laws, c. 186, § 1.)

### § 8703. Remedies cumulative.

The remedies herein provided are cumulative and, if 2 or more proceedings are pending to recover the amount due for taxes upon the same property for any year, neither proceeding shall be pleaded in bar or in suspension of other proceedings. However, when the full amount due for taxes upon the property for the year shall have been fully paid to the plaintiff in any proceeding, together with all costs in all proceedings then pending, the plaintiff shall enter upon the records thereof discontinuances thereof.

(40 Del. Laws, c. 135, § 1; Code 1915, § 1170; Code 1935, § 1363; 9 Del. C. 1953, § 8703.)

### § 8704. Survival of prior liens.

Liens or encumbrances against lands and tenements sold for taxes by the Receiver of Taxes and County Treasurer of Kent County or Department of Finance of Sussex County under the provisions of this chapter which were valid and subsisting liens or encumbrances at the time of the sale for taxes (other than the lien for the taxes for the collection of which such sale is made), shall not be discharged or anywise affected by such sale, and such sale shall be subject to such liens or encumbrances.

(33 Del. Laws, c. 84, § 15A; 38 Del. Laws, c. 78, § 1; Code 1935, § 1412; 9 Del. C. 1953, § 8704; 50 Del. Laws, c. 524, § 1; 57 Del. Laws, c. 762, § 24A.)

### § 8705. Lien of taxes.

(a) All taxes assessed against real estate by New Castle County shall continue a lien against such real estate for 10 years from July 1 of the year for which the taxes were levied, but if the real estate remains the property of the person who was the owner at the time that it was assessed, then the lien shall continue until the tax is collected.

(b) All taxes assessed against real estate by Sussex County shall continue a lien against such real estate for 10 years from July 1 of the year for which the taxes were levied, but if the real estate remains the property of the person who was the owner at the time that it was assessed, then the lien shall continue until the tax is collected. The lien of taxes shall have priority over all other liens.

(c) The priority of such liens in any of the 3 counties shall be as given in Title 25.

(d) All taxes assessed against real estate by Kent County shall continue a lien against such real estate for 10 years from July 1 of the year for which the taxes were levied, but if the real estate remains the property of the person who was the owner at the time that it was assessed, then the lien shall continue until the tax is collected. The lien of taxes shall have priority over all other liens.

(15 Del. Laws, c. 476; 16 Del. Laws, c. 141; 19 Del. Laws, c. 556; 20 Del. Laws, c. 373, § 1; 20 Del. Laws, App. p. 8, § 11; Code 1915, §§ 1152, 2870; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1348, 3351; 9 Del. C. 1953, § 8705; 55 Del. Laws, c. 85, § 25B; 57 Del. Laws, c. 762, § 24B; 60 Del. Laws, c. 607, §§ 1, 2; 65 Del. Laws, c. 60, § 1; 82 Del. Laws, c. 225, § 2.)

## § 8706. Extension of tax lien in Kent or Sussex Counties.

The lien of any taxes upon real estate in Kent or Sussex Counties may be extended in the manner following: The tax collecting authority shall, prior to the expiration of the lien of the taxes, file with the prothonotary of the county a certificate containing the name of the taxable, the amount of the assessment, distinguishing the real property and capitation tax, the year for which the taxes may be levied, the rate of taxes, the total tax levied, the date from which the penalty for nonpayment of tax shall begin, and the rate of such penalty per month. The prothonotary shall thereupon file the certificate and enter an abstract thereof upon a record to be kept in the prothonotary's office and to be known as "Tax Lien Record." The lien of the tax shall thereupon be extended and remain a lien against all the real property of the taxable within the county, inclusive of all real property, alienated by the taxable subsequent to the levy of the tax, and shall extend back to the date of the levy of the tax, and shall continue in force for a period of 5 years from the date of the levy, subject to the same conditions and limitations as of a judgment recovered in the Superior Court, and a writ of levari facias may issue thereon for the sale of the taxable's real estate at the direction of such tax collecting authority as on any such judgment, and shall be in the name of the State against the taxable. The same provisions of law respecting the sale of lands under a writ of levari facias or execution process as in other cases shall apply to the sale of lands made under this section.

(28 Del. Laws, c. 82, § 26; 30 Del. Laws, c. 82, § 7; 33 Del. Laws, c. 84, § 21; 38 Del. Laws, c. 78, § 1; Code 1935, §§ 1418, 1451; 42 Del. Laws, c. 109, § 1; 9 Del. C. 1953, § 8706; 57 Del. Laws, c. 762, § 24C; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8707. Distress.

The remedy by distress, as prescribed by law, is preserved to the tax collecting authority of each county for the collection of any taxes that may be due and unpaid.

(28 Del. Laws, c. 82, § 18; 33 Del. Laws, c. 84, § 13; Code 1935, §§ 1410, 1443; 9 Del. C. 1953, § 8707; 55 Del. Laws, c. 85, § 25C; 71 Del. Laws, c. 401, § 114.)

## § 8708. Actions for recovery in New Castle County — Appeals; attachment.

(a) The Office of Finance in New Castle County, if it fails to proceed or is prevented from proceeding by reason of the death, insolvency or bankruptcy of the person or corporation liable for the payment of any taxes, or for any other cause, may, in any case, recover the amount of such taxes as it is by law authorized to collect in a civil action in any court of competent jurisdiction, against the person to whom property is assessed or in case the property is owned by any person to whom it is not assessed, then against the owner or owners of the property. If service, as in other civil actions or actions of debt, be had upon any 1 of several owners of real estate upon which taxes are levied, service need not be had upon the other owner or owners of the real estate, if a copy of the writ is left with the tenant in possession or posted upon the premises 6 days before the return of the process. In such an action, it shall be sufficient to set forth that the action is to recover a specified sum of money being a tax assessed against property owned by the defendant in whole or in part, together with such description of the property, as will be sufficient to identify the same and the year for which the taxes were levied.

(b) A right of appeal shall be the same as in other civil actions.

(c) In case any defendant is a nonresident or a corporation not organized under the laws of this State, proceedings may be had in the Superior Court for the county by attachment. The writ of attachment shall be framed, directed, executed and returned and like proceedings had as in other cases of foreign attachment in this State, except that the Office of Finance shall only be required to make and file with the Prothonotary an affidavit stating that the defendant resides out of the State or is a corporation not existing under the laws of the State (as the case may be), and that the defendant or it is justly indebted for taxes in the sum of . . . . . dollars.

(Code 1915, § 1167; 40 Del. Laws, c. 135, § 1; Code 1935, § 1360; 42 Del. Laws, c. 109, § 1; 9 Del. C. 1953, § 8708; 55 Del. Laws, c. 85, § 25D; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 116, 117.)

## § 8709. Actions for recovery in New Castle County — Judgments; execution.

If judgment be rendered in favor of the Office of Finance in an action under § 8708 of this title, an execution shall issue against the real or personal estate of the defendant. No execution against the real estate shall issue except out of the Superior Court. Where such judgment is recovered before the Court of Common Pleas or before a justice of the peace and it is the desire of the Office of Finance to proceed against the real estate, the Office of Finance shall take a transcript of the judgment from the Court of Common Pleas or justice of the peace and cause the same to be entered in the Superior Court in and for New Castle County. When such transcripts are entered, the

subsequent proceedings shall be the same as upon other judgments. The lien of the judgment shall relate back and take effect from July 1 of the year for which the taxes upon which the judgment was recovered were levied.

(Code 1915, § 1168; 40 Del. Laws, c. 135, § 1; Code 1935, § 1361; 9 Del. C. 1953, § 8709; 55 Del. Laws, c. 85, § 25D; 71 Del. Laws, c. 401, §§ 116-118.)

### § 8710. Actions for recovery in Kent and Sussex Counties; judgments; execution.

(a) At any time after the delivery of the duplicates and warrants and without notice to the taxable, the tax collecting authority may institute suit before any justice of the peace of this State in any of the counties in the State for the recovery of any tax due and unpaid, and, in an action of debt, may recover judgment against any taxable, and upon such judgment may sue out writs of execution as in case of other judgments recovered before a justice of the peace. The action shall be brought in the name of ". . . . . Receiver of Taxes and County Treasurer for . . . . . County." In Sussex County, the action should be brought in the name ". . . . . , Director of Finance for Sussex County."

(b) In Sussex County execution shall be and constitute a lien upon all the personal property of the taxable within the County of Sussex which, by virtue of the execution, shall be levied upon within 30 days after the issuance thereof, and such lien shall have preference and priority to all other liens on the personal property created or suffered by the taxable, although such other lien or liens be of a date prior to the time of the attachment of such lien for taxes.

(28 Del. Laws, c. 82, § 18; 30 Del. Laws, c. 82, § 4; 33 Del. Laws, c. 84, § 13; Code 1935, §§ 1410, 1443; 9 Del. C. 1953, § 8710; 57 Del. Laws, c. 762, §§ 24D, 24E; 71 Del. Laws, c. 401, § 115.)

### § 8711. Attachment of wages.

(a) Any tax collecting authority may at any time notify in writing the person or corporation by whom any taxable is employed that the tax of the employee is due, delinquent and unpaid, and thereupon the employer shall deduct from the wages, or from any sum due such employee, the amount of the tax due from such employee, and charge the same against the employee. If such employer refuses or neglects to comply with the provisions of this section within 3 months from the time of receiving such notice, the employer shall be personally liable for the tax of such person as to whom notice has been given. The amount of the tax may be recovered from such employer by the tax collecting authority in an action of debt before any justice of the peace.

(b) When the amount of such tax is held by any employer under the provisions of this section, the employer shall pay the same to the tax collecting authority within 30 days thereafter. A copy of this section shall accompany all written notices to employers.

(20 Del. Laws, App. p. 12, § 33; Code 1915, § 1173; 28 Del. Laws, c. 82, § 18; 33 Del. Laws, c. 84, § 13; 40 Del. Laws, c. 135, § 1; Code 1935, §§ 1366, 1410; 9 Del. C. 1953, § 8711; 55 Del. Laws, c. 85, § 25A; 57 Del. Laws, c. 762, § 24F; 68 Del. Laws, c. 368, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, §§ 115, 119.)

## Subchapter II
## Monition Method of Sale

### § 8721. Monition method established.

In addition to all existing methods and authority for the collection of taxes due to the tax collecting authority, or former County Tax Collectors, or former Receivers of Taxes and County Treasurers of New Castle or Sussex Counties, the monition method and authority is established.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8721; 55 Del. Laws, c. 85, § 25A; 60 Del. Laws, c. 675, §§ 1, 2; 61 Del. Laws, c. 391, §§ 1, 2; 71 Del. Laws, c. 401, § 115.)

### § 8722. Praecipe; judgment; monition.

(a) The tax collecting authority may file a praecipe in the office of the prothonotary of the Superior Court in and for the county where the property is located.

(b) The praecipe shall contain the name of the person against whom the taxes sought to be collected were assessed, a copy of the bill or bills showing the amount of taxes due, and the property against which the taxes were assessed. The description of the property, as the same appears upon the assessment rolls of the county where the property is located, shall be a sufficient identification and description of the property. Thereupon the prothonotary shall make a record of the same on a special judgment docket of the Superior Court against the property mentioned or described in the praecipe which record shall consist of the following:

(1) The name of the person in whose name the assessment was made;

(2) The description of the property as the same shall appear upon the assessment rolls;

(3) The year or years for which the taxes are due and payable;

(4) The date of the filing of such praecipe;

(5) The amount of the judgment, the same being the amount set forth in the praecipe.

Such judgment shall be indexed in the judgment docket itself under the hundred in which the property is located as the location appears upon the assessment rolls so prepared, and under the hundred by communities where the name of the community appears upon the assessment rolls so prepared, and by referring to the page in the judgment docket whereon the record shall appear.

(c) Thereafter upon a praecipe for monition filed in the office of the prothonotary by the tax collecting authority, a monition shall be issued by the prothonotary to the sheriff of the county where the property is located, which monition shall briefly state the amount of the judgment for the taxes due and the years thereof, including accrued penalty thereon, together with a brief description of the property upon which the taxes are a lien. A description of the property as it appears upon the assessment rolls shall be sufficient.

(d) The tax collecting authority for New Castle, Kent and Sussex Counties may initiate and complete the monitions process against any property designated by the authority as having an unknown owner for a continuous period in excess of 5 years. Notwithstanding that an investigation of chain of title to such property has not been performed, and notwithstanding any provision of this chapter to the contrary, the taxing authority shall be exempted from any obligation expressed therein that cannot be satisfied due to the absence of a known owner, including but not limited to notification of sale to the record owner and provision of copies of bills showing amounts due.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8722; 55 Del. Laws, c. 85, § 25E; 60 Del. Laws, c. 675, §§ 2, 3; 61 Del. Laws, c. 391, §§ 1, 2; 71 Del. Laws, c. 401, § 120; 71 Del. Laws, c. 401, § 115; 75 Del. Laws, c. 119, § 1.)

## § 8723. Form of monition.

The monition shall be in substantially the following form:

To all persons having or claiming to have any title, interest or lien upon the within described premises, take warning that unless the judgment for the taxes or assessment stated herein is paid within 20 days after the date hereof or within such period of 20 days, evidence of the payment of taxes herein claimed shall be filed in the office of the prothonotary, which evidence shall be in the form of a receipted tax bill or duplicate thereof, bearing date prior to the filing of the lien in the office of the prothonotary for the county where the property is located, the tax collecting authority may proceed to sell the property herein mentioned or described for the purpose of collecting the judgment for the taxes or assessments herein stated, including accrued penalties and all costs incurred in the collections process.

| Name of personin whose nameproperty isassessed | Descriptionofproperty | YearorYears | AmountofJudgment |
|---|---|---|---|

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8723; 55 Del. Laws, c. 85, § 25F; 60 Del. Laws, c. 675, §§ 3, 4; 71 Del. Laws, c. 401, §§ 15, 121.)

## § 8724. Posting of monition; sheriff's return; alias or pluries monition.

(a) The monition, or a copy thereof, shall be posted by the sheriff upon some prominent place or part of the property against which the judgment for the taxes or assessment is a lien, and the sheriff shall make due and proper return of his or her proceedings under the monition to the prothonotary, within 10 days after the posting of the monition.

(b) Alias or pluries monition may issue upon like praecipe. The posting of the notice as herein required shall constitute notice to the owner or owners and all persons having any interest in the property.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8724; 70 Del. Laws, c. 186, § 1.)

## § 8725. Issuance and form of writ of venditioni exponas.

(a) At any time after the expiration of 20 days following the return of the sheriff upon the monition, unless before the expiration of the 20 days the judgment and cost on the judgment shall be paid or evidence of the payment of such taxes evidenced by a receipted tax bill or a duplicate thereof bearing date therefor prior to the filing of the lien for record in the office of the prothonotary, upon application in writing by the tax collecting authority, a writ of venditioni exponas shall issue out of the office of the prothonotary directed to the sheriff commanding the sheriff to sell the property mentioned or described in the writ and make due return of such proceedings thereunder in the same manner as is now applicable with respect to similar writs of venditioni exponas issued out of the Superior Court. The property shall be described in the writ under the description thereof as it appears on the assessment rolls and by metes and bounds where obtainable, but nothing herein contained shall be construed to invalidate a writ or a sale pursuant thereto containing only the description as it appears on the assessment rolls or a writ bearing only a description by metes and bounds.

(b) The writ shall be substantially in the following form:

NEW CASTLE (KENT) (SUSSEX) COUNTY, SS.

The State of Delaware.

TO THE SHERIFF OF .....COUNTY,

GREETINGS:

WHEREAS, by a Monition issued out of the Superior Court dated at ....., the ..... day of ..... A.D. 20....., IT WAS COMMANDED, that you should post the said Monition or copy thereof upon the real estate therein mentioned and described, and make a return to the said Superior Court within ten days after said posting.

That on the ..... day of .....A.D. 20. ....., you returned that a copy of the said Monition was posted on the real estate therein mentioned and described on the ..... day of .....A.D. 20. .....

We therefore now command you to expose to public sale, the real estate mentioned and described in said Monition as follows: ..... and that you should cause to be made as well a certain debt of ..... Dollars ($.....) lawful money of the

United States, which to the said Department of Finance of New Castle (Sussex) County (Receiver of Taxes for Kent County), is due and owing, as also the sum of ..... Dollars ($.....) lawful money as aforesaid, for its costs, which it has sustained by the detaining of that debt, whereof the said ..... was convicted as it appears of record and against which said property it is a lien:

And have you that money before the Judges of our Superior Court at ....., on Monday the ..... day of Next, to render to the said Department of Finance of New Castle (Sussex) County (Receiver of Taxes for Kent County) as aforesaid, for its debt and costs as aforesaid, and this writ:

WITNESSETH, the Honorable ..... at ....., the ..... day of . . . . . A.D. 20.....

..... Prothonotary

Issued:

(c) The description contained in such monition shall be a sufficient description of the real estate to be sold under such writ.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8725; 55 Del. Laws, c. 85, § 25G; 60 Del. Laws, c. 675, §§ 1, 2, 4, 5; 61 Del. Laws, c. 391, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 122.)

## § 8726. Sales subject to approval of Department of Finance or Chief County Financial Officer; prequalification of bidders.

(a) The department of finance or the chief county financial officer as designated by the county governing body may approve or disapprove the final bid at a sale made by the sheriff under this subchapter for any public purpose or reason, including the failure of the successful bidder or its affiliates to comply with the requirements of any law or regulation with respect to any other real property owned by such successful bidder or its affiliates, the failure of such successful bidder or its affiliates to timely pay any amounts owed to the State or any county or municipality or the inability of the successful bidder to remedy any unlawful conditions at the property subject to such sheriff sale in a timely manner; provided that the notice of the public sale includes that such sale is "subject to the approval of the department of finance or the chief county financial officer" in the terms of sale. In the event the department of finance or the chief county financial officer does not approve the final bid at such sale, the said department of finance or chief county financial officer may expose the property to another and as many succeeding sales as it chooses.

(b) Provided that the notice of the public sale so indicates, the county governing body may require that bidders at a sheriff sale, prior to any bid, certify to the county governing body that such bidder, either directly or through any affiliated entities, does not own any interest in any real property in such county that:

(1) Has amounts past due identified in § 2901(a) of Title 25, in excess of $1,000; or

(2) Has been vacant for at least 18 consecutive months and such property is not subject to a valid building permit or a pending land use application.

Organizations that are exempt from federal taxation pursuant to § 501(c)(3) of the Internal Revenue Code [26 U.S.C. § 501(c)(3)] and that have been building, rehabilitating, and providing affordable housing units within the State for at least 5 years, and community development corporations, as defined in 42 U.S.C. § 9802, shall be exempt from these provisions upon certification of such status by the county.

(c) The county shall generate a certificate that the bidder shall present to the sheriff prior to the sale, and the sheriff shall require presentation of such certificate prior to registering any bidder. The county may establish a fee that reflects the costs of preparing and issuing the certificate that shall be paid by bidder prior to issuance of the certificate.

(d) For purposes of this section, "affiliated entity" means either of the following:

(1) Any other entity that is under common control with the bidder.

(2) Any person or entity who directly or indirectly holds any beneficial or ownership interest in the bidder of 5% or greater.

(e) If a sale is subject to approval of the department of finance or the chief county financial officer, no assignment of a successful bid shall occur without the approval of the department of finance or the chief county financial officer. If the county requires certification of bidders at a sale, no assignment of a successful bid shall occur unless the assignee secures a certification from the county consistent with requirements of this section or qualifies as a land bank pursuant to § 4703 of Title 31.

(72 Del. Laws, c. 138, § 1; 81 Del. Laws, c. 161, § 1.)

## § 8727. Title of property sold.

Any real estate or interest therein sold under the provisions of this subchapter shall vest in the purchaser all the right, title and interest of the person in whose name the property was assessed, and/or all right, title and interest of the person or persons who are the owners thereof, and likewise freed and discharged from any liens and encumbrances, dower or curtesy or statutory right, in the nature of a dower or curtesy, whether absolute or inchoate, in or to the real estate.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8726; 50 Del. Laws, c. 524, § 2; 72 Del. Laws, c. 138, § 1.)

## § 8728. Petition by purchasers for deed of conveyance.

If the owner of the property or the owner's legal representatives fail to redeem the property as provided in this subchapter, the purchaser of the property or the purchaser's legal representatives, successors or assigns may present a petition to the Superior Court setting forth the appropriate facts in conformity with this subchapter and pray that the Superior Court make an order directing the Sheriff, then in office, to

execute, acknowledge and deliver a deed conveying the title to the property to the petitioner; and thereupon the Superior Court shall have power, after a hearing upon the petition, to issue an order directing the Sheriff to execute, acknowledge and deliver a deed as prayed for in the petition. A description of the property as the same shall appear upon the assessment rolls, and a description by metes and bounds where obtainable shall be a sufficient description in any such deed.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8727; 55 Del. Laws, c. 85, § 25H; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 138, § 1.)

## § 8729. Redemption by owner.

The owner of any such real estate sold under this subchapter or the owner's legal representatives may redeem the same at any time within 60 days from the day the sale thereof is approved by the Court, by paying to the purchaser or his or her legal representatives, successors or assigns, the amount of the purchase price and 15 percent in addition thereto, together with all costs incurred in the cause; or if the purchaser or his or her legal representatives, successors or assigns refuse to receive the same, or do not reside or cannot be found within the county where the property is located, by paying the amount into the Court for the use of the purchaser, his or her legal representatives or assigns.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8728; 60 Del. Laws, c. 172, § 1; 60 Del. Laws, c. 675, § 6; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 138, § 1.)

## § 8730. Petition by owner after redemption for entry on judgment record.

If the owner of any real estate sold under an order of sale or the owner's legal representative redeems the real estate, he or she may present to the Superior Court a petition setting forth that fact and thereupon the Superior Court, after hearing and determining the facts set forth in the petition, shall have power to cause to be entered upon the record of the judgment, under which the real estate was sold, a memorandum that the real estate described in the proceedings upon which the judgment was entered has been redeemed. Thereafter the owner shall hold such redeemed real estate subject to the same liens and in the same order of priority as they existed at the time of the sale thereof, excepting so far as the liens have been discharged or reduced by the application of the proceeds by the sheriff from the sale.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8729; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 138, § 1.)

## § 8731. Regularity of proceedings under venditioni exponas.

Upon the return of the proceedings under a writ of venditioni exponas, the Superior Court may inquire into the regularity of the proceedings thereunder, and either approve the sale or set it aside.

(46 Del. Laws, c. 133, § 1; Code 1935, § 1381A; 9 Del. C. 1953, § 8730; 72 Del. Laws, c. 138, § 1.)

## § 8732. No proceedings unless tax is a lien upon property; construction of term "Superior Court."

(a) No proceedings shall be brought under this subchapter unless the tax or assessment sought to be collected hereunder shall at the time of the filing of the praecipe in the office of the prothonotary be and constitute a lien upon the property against which the tax or assessment was assessed or laid.

(b) Whenever the Superior Court is mentioned in this subchapter, the same shall be held to embrace the Judges or any Judge thereof, and any act required or authorized to be done under this subchapter may be done by the Superior Court or any Judge thereof in vacation thereof, as well as in term time.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8731; 72 Del. Laws, c. 138, § 1.)

## § 8733. Fees and costs.

(a) The fees and costs to be taxed in all proceedings under this subchapter, where not otherwise provided for, shall be as follows:

| **The following fees shall be charged by the prothonotary:** | |
|---|---|
| Filing praecipe | $1.10 |
| Issuing monition and copy | 2.75 |
| Issuing alias or pluries monition and copy | 2.75 |
| Writ of venditioni exponas | 2.25 |
| Filing any petition in Superior Court under this subchapter | 1.00 |
| Costs of paying money into Superior Court | 1.00 |
| Costs of paying money out of Superior Court for each check drawn | 1.00 |
| The following fees shall be charged by the Sheriff: | |
| Posting monition or copy thereof | .75 |
| Posting each alias or pluries, monition or copy thereof | .75 |
| The following fee shall be charged by the tax collecting authority for Kent County: | |
| For preparing description of liened property | 25.00 |
| The following fee shall be charged by the tax collecting authority for Sussex County: | |
| For preparing description of liened property | 25.00 |
| All other charges not covered by this section shall be the same as are provided by law. | |

(b) In addition to the fees set forth above, the costs to be taxed in all proceedings under this subchapter which are brought in Sussex County may include all reasonable attorney's fees, as determined by the Court, incurred by the County in connection with each respective proceeding.

(c) This section shall not apply to Kent County. The county government of Kent County may provide by ordinance for fees and costs to be taxed in all proceedings under this subchapter.

(d) County Council of New Castle County may provide by ordinance for fees and costs to be taxed in all proceedings under this chapter.

(Code 1935, § 1381A; 46 Del. Laws, c. 133, § 1; 9 Del. C. 1953, § 8732; 55 Del. Laws, c. 85, § 25I; 60 Del. Laws, c. 675, § 7; 61 Del. Laws, c. 391, § 3; 65 Del. Laws, c. 305, § 2; 69 Del. Laws, c. 278, § 1; 71 Del. Laws, c. 401, §§ 115, 123; 72 Del. Laws, c. 138, § 1.)

## Subchapter III

## Attachment of Land in New Castle County

### § 8741. Legal proceedings to collect unpaid taxes.

The Office of Finance of New Castle County may, on or after January 1 in every year, institute proceedings against all persons in such County liable for the payment of any taxes payable to the County then remaining due and unpaid for any year or years prior thereto.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8741; 55 Del. Laws, c. 85, § 25K; 71 Del. Laws, c. 401, § 125.)

### § 8742. Where attachment proceedings brought.

(a) Legal proceedings under § 8741 of this title to collect unpaid taxes may be instituted in any court of competent jurisdiction.

(b) The proceedings shall be either by attachment, as provided in this subchapter, or by any other procedure authorized by law.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8742; 71 Del. Laws, c. 401, § 126.)

### § 8743. Affidavit and writ of attachment.

(a) In attachment proceedings under this subchapter, an affidavit shall be made and filed by the office of finance, or by some creditable person for it, stating that the defendant is justly indebted to the plaintiff in the sum of (stating the sum due for taxes) for the year (stating the year for which the taxes are due) with the prothonotary of the appropriate court and thereupon the prothonotary or Clerk of the Court of Common Pleas or the justice of the peace (as the case may be), shall issue a writ of attachment directed to the Sheriff of New Castle County commanding the Sheriff that the Sheriff attach all the lands and tenements, goods and chattels, rights and credits, moneys and effects of the defendant within New Castle County to answer the plaintiff in a cause of action wherein the sum of . . . . . dollars for taxes for the year . . . . . is demanded and that the Sheriff summon any garnishee or garnishees of the defendant found within the Sheriff's bailiwick to appear before the Superior Court or before the Court of Common Pleas or before the justice of the peace (as the case may be), on the . . . . . day of . . . . . ., A.D. . . . . at . . . . . o'clock in the . . . . . to answer what goods and chattels, rights and credits, moneys and effects of the defendant may be in the defendant's hands and that the defendant have then and there the writ of attachment with the defendant's doings thereon duly endorsed. The writ of attachment shall be returnable within 15 days. There shall be omitted from the writ of attachment, if issued by the Clerk of the Court of Common Pleas or by a justice of the peace the words "lands and tenements."

(b) Under the writ of attachment, if issued by the prothonotary, the sheriff shall be authorized to attach not only the lands and tenements belonging to the defendant, but such other lands and tenements, or any part thereof, theretofore belonging to the defendant against which the taxes sued for are a lien.

(c) If the sheriff is unable to find any property, rights, credits, moneys or effects of the defendant subject to attachment within the sheriff's bailiwick or in the hands of any person within the sheriff's bailiwick, then a further writ or writs of attachment may be issued until the sheriff shall find property, rights, credits, moneys or effects subject to attachment within the sheriff's bailiwick.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8743; 55 Del. Laws, c. 85, § 25K; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 127.)

### § 8744. Notice of attachment to defendant.

(a) Notice of the attachment shall also be given to the defendant whenever practicable. If the defendant is a person, such writ may either be served upon the defendant personally or by leaving a copy thereof at the defendant's usual place of abode within New Castle County more than 6 days before the return thereof in the presence of an adult person, and if the defendant is a corporation, such writ may either be served personally on the president or 1 of the directors thereof or by leaving a copy thereof at its principal place of business in New Castle County more than 6 days before the return thereof in the presence of an adult person, or if the person does not reside in New Castle County, or if the corporation has no place of business in New Castle County, a copy thereof may be mailed in a sealed postpaid envelope directed to the last known address or place of business of the defendant more than 6 days before the return thereof.

(b) The day of mailing shall be deemed and taken as the day of the giving of the notice, but the failure to give the notice shall not divest the court or the justice of the peace before whom the proceedings were instituted of jurisdiction to hear and determine the proceedings.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8744; 70 Del. Laws, c. 186, § 1.)

### § 8745. Affidavit of defense; time limit.

The defendant in any attachment whose property has been attached at any time before the expiration of 10 days after the return of attachment may file in the court or with the justice of the peace where the writ is returnable an affidavit denying the demand of the plaintiff in whole or in part.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8745.)

### § 8746. Judgment for want of an affidavit of defense.

In every case in which property of the defendant has been attached, and no affidavit is filed by the defendant, judgment on motion shall be entered in favor of the plaintiff and against the defendant for the amount shown to be due by the affidavit filed by the plaintiff together with the plaintiff's costs.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8746; 70 Del. Laws, c. 186, § 1.)

### § 8747. Trial.

Where property of the defendant has been attached and an affidavit has been filed by the defendant, the Superior Court or the Court of Common Pleas or the justice of the peace (as the case may be), shall proceed to direct an issue to be tried by a jury at the bar of the Superior Court or by a reference to 3 judicious and impartial citizens before the Court of Common Pleas to be appointed by the Court or before the justice of the peace to be appointed by the justice of the peace (as the case may be) for ascertaining whether there is a just demand and the amount thereof, and their verdict or finding shall be final and conclusive.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8747.)

### § 8748. Discharge of property or garnishee upon posting bond.

If the defendant gives to the plaintiff a bond with sufficient surety to be approved by the sheriff before the return of the attachment or by the court or justice of the peace (as the case may be), after the return thereof to pay any judgment recovered against the defendant with costs, the property attached and the garnishee summoned shall be discharged.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8748; 70 Del. Laws, c. 186, § 1.)

### § 8749. Judgment and sale of property.

If a bond be not given, the court or justice of the peace (as the case may be), upon the entry of judgment against the defendant and upon the petition of the plaintiff, shall forthwith make an order for the sale of the property attached upon due notice or so much thereof as shall be necessary to pay the judgment with the costs, and shall render judgment against every garnishee summoned upon the attachment that has answered, confessing property in his, her or its hands or upon the verdict of a jury in the Superior Court against him or her or upon the finding against him or her on a hearing before the Court of Common Pleas or justice of the peace (as the case may be), if required to plead, as in other proceedings by attachment.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8749; 70 Del. Laws, c. 186, § 1.)

### § 8750. Notice of order to sell to lienholders of real estate.

If the property attached is in whole or in part real estate, the court making the order for the sale of property shall also order that notice be given to all persons holding liens and encumbrances against the real estate, as set out in the petition of the plaintiff but the failure to include in the petition or in the order the name of any person holding any such lien or encumbrance or the failure to give such notice to such person shall not be sufficient cause to set aside such sale, but the real estate so sold shall not be sold or discharged of liens and encumbrances existing against it held by any person not named in the order and not served with the notice. The notice shall be served personally upon such persons holding liens at least 6 days before the day of sale, by delivering to each of such persons a copy of the order of sale or by leaving a copy thereof at the usual place of abode of such persons within New Castle County in the presence of an adult person. In case it appears to the court that any of such persons holding liens has no known place of abode within New Castle County and cannot be served personally, the court shall order that publication of notice of the sale be made in such newspaper or newspapers published in New Castle County as shall in the judgment of the court best serve to bring to such person knowledge of the sale.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8750.)

### § 8751. Return of residue to defendant.

The residue of property attached, after satisfying the judgment and costs, shall be restored or paid to the defendant without delay.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8751.)

### § 8752. Exemption laws do not apply; those liable as garnishee.

The defendant in any writ of attachment under this subchapter shall not be entitled to the benefit of any of the exemption laws of this State. All persons, firms, associations, corporations, public and private, including banks, trust companies, savings institutions, loan associations and insurance companies and public officers and the agents, servants and trustees of the defendant shall be liable to be

summoned as garnishee for which purpose service of the summons as provided in other attachment cases shall be sufficient to render the persons and the officers of the corporations subject to all the liabilities provided by law and the answer of such persons and of such officers so served with the attachment shall be enforced in the same manner as is now provided by law in other cases.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8752.)

## § 8753. Purchase at Sheriff's Sale by agent of County.

New Castle County Council may authorize any person to bid at the sale of any real estate under this chapter and, in the event that such person is the highest and best bidder therefor, title thereto shall be taken in the name of New Castle County. County Council shall not authorize anyone to bid in excess of the aggregate amount of all taxes, service charges, penalties and obligations due to New Castle County, including costs incurred in the collection process.

(Code 1915, § 1155; 40 Del. Laws, c. 135, § 1; Code 1935, § 1351; 9 Del. C. 1953, § 8753; 55 Del. Laws, c. 85, §§ 85K, 85L; 71 Del. Laws, c. 401, § 128.)

## § 8754. Proceedings to collect taxes where delay may lose benefit of process.

The tax collecting authority may at any time prior to January 1 in any year institute proceedings against any person liable for the payment of any taxes payable to the county and due to it then remaining unpaid for the year in the manner provided for in this subchapter upon there being stated in the affidavit as provided in § 8743 of this title the further fact that the affiant has just caused to believe that the plaintiff will lose the benefit of the plaintiff's process by delay.

(Code 1915, § 1156; 40 Del. Laws, c. 135, § 1; Code 1935, § 1352; 9 Del. C. 1953, § 8754; 55 Del. Laws, c. 85, § 25K; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8755. Penalty for removing attached property from County.

Whoever, without the consent of the plaintiff in any writ of attachment issued under the provisions of this subchapter, secretes, destroys or removes from the county any property seized under a writ of attachment issued under this subchapter, shall be fined in a sum equal to the value of the property secreted, destroyed or removed and shall also be imprisoned not more than 1 year.

(Code 1915, § 1157; 33 Del. Laws, c. 82, § 7; Code 1935, § 1353; 9 Del. C. 1953, § 8755.)

## § 8756. Procedure upon failure of bonded defendant to pay judgment.

In every case in which the defendant has given to the plaintiff a bond in the manner provided for in this subchapter and judgment has been entered against the defendant, if the defendant fails to pay to the plaintiff the judgment with interest and costs within 20 days from the entry thereof, the plaintiff shall upon the expiration of the 20 days forthwith institute an action of debt upon the bond in some court of competent jurisdiction and promptly prosecute the same and upon the recovery of judgment therein forthwith proceed to the collection thereof by execution process or otherwise.

(Code 1915, § 1158; 33 Del. Laws, c. 82, § 8; Code 1935, § 1354; 9 Del. C. 1953, § 8756.)

## § 8757. Procedure to confirm or set aside sale; second sale.

Upon the return of any order of sale the Superior Court shall, if real estate is sold, inquire into the circumstances and regularity of the proceedings relative to such sale and either confirm the sale or set it aside. If the Superior Court confirms the sale the sheriff shall deliver to the purchaser a certificate reciting the judgment recovered in the proceedings and the order of sale and setting forth the facts relative to such sale, and the purchaser shall have and be possessed of all rights in and to the real estate, subject to the right of redemption as provided in § 8758 of this title, as the defendant in the proceeding had on July 1 of the year for which the taxes were levied upon, which judgment was recovered in the proceeding, and the Superior Court shall have power to make all necessary orders and rules and to issue all writs which may be necessary to put the purchaser in possession of the real estate without delay. If the sale be set aside another order of sale may issue and be executed in the same manner and with like effect. Upon confirmation of such sale, the sheriff shall pay to the plaintiff the amount of the judgment with interest and costs and shall pay the balance thereof to such persons who were served with notice of such sale as then hold liens upon the lands and premises whether by way of taxes, mortgage, judgment, recognizance or otherwise, in accordance with the priority of their lien and the balance thereof shall be paid to the person who was the owner of the real estate at and immediately before the sale, or the sheriff may, after paying to the plaintiff the amount of the judgment with interest and costs, pay the balance thereof into the Superior Court. No sale shall be confirmed if the owner of the real estate or any person having an interest therein shall pay to the plaintiff or shall pay into the Superior Court for the use of the plaintiff the amount of the judgment together with interest and all costs.

(Code 1915, § 1162; 33 Del. Laws, c. 82, § 12; 34 Del. Laws, c. 92, § 3; Code 1935, § 1355; 9 Del. C. 1953, § 8757.)

## § 8758. Redemption of real estate by owner after sale.

The owner of any real estate sold under order of sale or the owner's legal representative may redeem the real estate so sold at any time within 60 days from the day the sale is confirmed by the Superior Court, by paying to the purchaser or the purchaser's legal representative the amount of the purchase price and 15 percent in addition thereto or if the purchaser or the purchaser's legal representative shall refuse

to receive the same or does not reside within New Castle County or cannot be found within the County the owner may pay the amount into the Superior Court for the use of the purchaser.

(Code 1915, § 1163; 33 Del. Laws, c. 82, § 13; 34 Del. Laws, c. 92, § 4; Code 1935, § 1356; 9 Del. C. 1953, § 8758; 60 Del. Laws, c. 171, § 1; 70 Del. Laws, c. 186, § 1.)

### § 8759. Owner's petition and rights after redemption.

If the owner of any real estate sold under an order of sale or the owner's legal representative redeems the real estate, he or she may prefer to the Superior Court a petition setting forth that fact and thereupon the Superior Court, after hearing and determining the facts set forth in the petition, shall cause to be entered upon the record of the judgment, under which the real estate was sold, a memorandum that the real estate described in the proceedings upon which the judgment was entered has been redeemed and thereafter the owner shall hold such redeemed real estate subject to the same liens and in the same order of priority as they existed at the time of the sale thereof, excepting so far as the liens have been discharged or reduced by the application of the proceeds by the Sheriff from the sale.

(Code 1915, § 1164; 33 Del. Laws, c. 82, § 14; 34 Del. Laws, c. 92, § 5; Code 1935, § 1357; 9 Del. C. 1953, § 8759; 70 Del. Laws, c. 186, § 1.)

### § 8760. Right of redemption by lienholder.

(a) If the owner or the owner's legal representative does not redeem the real estate within 60 days from the day the sale is confirmed by the Superior Court, any person who has an interest or lien upon any real estate so sold which was discharged by the sale may prefer a petition to the Superior Court at any time within 1 year from the day the sale is confirmed by the Superior Court setting forth the fact that he, she or it desires to redeem the real estate and that he, she or it is willing to pay into the Superior Court for the use of the purchaser the amount of the purchase price and 15 percent in addition thereto. The petitioner may also state in the petition that he, she or it is willing to pay into the Superior Court a further sum (stating the sum) for the benefit of any person who has an interest in or a lien upon the real estate which was discharged by the sale prior to the interest or lien of the petitioner, and the petitioner may also state in the petition such other and further facts as the petitioner may deem proper.

(b) Upon the expiration of 1 year from the day of confirmation of the sale of the real estate the Superior Court, after giving due notice to all petitioners, shall proceed to hear the same and after considering the interest and liens of the petitioners shall determine which of the petitioners, if any, shall be permitted to redeem the same and shall make an order accordingly, the petitioner so permitted to redeem the same then paying into the Superior Court the amount specified in his, her or its petition for the use of the parties entitled thereto, and complying with such other orders as the Superior Court shall make.

(Code 1915, §§ 1164, 1165; 33 Del. Laws, c. 82, §§ 14, 15; 34 Del. Laws, c. 92, § 6; Code 1935, § 1358; 9 Del. C. 1953, § 8760; 60 Del. Laws, c. 170, § 1; 70 Del. Laws, c. 186, § 1.)

### § 8761. Procedure to obtain deed.

Any person having an interest in or a lien upon the real estate who redeems the same within the time and in the manner prescribed in § 8760 of this title, or any purchaser in case the real estate has not been redeemed or their respective representatives, may prefer a petition to the Superior Court setting forth the facts and applying for an order for a deed for the real estate, and the Superior Court, after hearing and determining the facts set forth in the petition, shall thereupon order the sheriff to execute, acknowledge and deliver to the person entitled thereto a deed granting and assuring unto such person the same estate and title as the defendant was seized of on July 1 of the year for which the taxes were levied upon under the judgment under which the real estate was sold was recovered (which date shall be specified in the order), discharged from all equity of redemption and from all liens and encumbrances held by persons against the property at the time of the sale who were given notice of such sale in the manner provided for in this subchapter and free and discharged of any right of or any inchoate right of dower or curtesy therein.

(Code 1915, § 1166; 33 Del. Laws, c. 82, § 16; 34 Del. Laws, c. 92, § 7; Code 1935, § 1359; 9 Del. C. 1953, § 8761.)

## Subchapter IV

## Sale of Land for Delinquent Taxes in Kent and Sussex Counties

### § 8771. Sale of land; notice; certificate.

(a) For the purpose of collecting the tax of any taxable, and without the necessity of first employing other remedies, the tax collecting authority may sell the lands and tenements of any taxable, or the lands and tenements of any taxable alienated by the taxable subsequent to the levy of such tax, in the manner provided for in this section.

(b) The tax collecting authority shall deposit in the mail in a sealed wrapper sufficiently stamped, an itemized tax bill, together with a notice to the taxable that he or she will proceed to sell the lands and tenements of the taxable for the payment of the tax, addressed to the taxable at the taxable's last known post-office address, if such can be reasonably ascertained.

(c) The tax collecting authority shall file in the office of the prothonotary a certificate under his or her hand and seal, containing:

(1) The name of the taxable;

(2) The assessment of the property of the taxable as it appears upon the tax duplicate;

(3) The year for which the tax was levied;

(4) The rate of tax;

(5) The total amount due;

(6) The date from which the penalty for nonpayment shall commence and the rate of such penalty;

(7) A short description of the lands and tenements proposed to be sold, sufficient to identify the same;

(8) The address of the taxable, if ascertainable as aforesaid;

(9) That a tax bill and notice has been mailed to such taxable, and the date of such mailing.

(d) Upon the filing of such certificate the Prothonotary shall record the same in a properly indexed record to be known as "Tax Sale Record," and shall endorse upon the record of said certificate the following: "The certificate filed the . . . . . day of . . . . . A. D. . . . . (giving the day and year), and the tax collecting authority shall therefore proceed to sell the lands and tenements herein mentioned, or a sufficient part thereof, for the payment of the tax due." The endorsement shall be signed by the Prothonotary.

(28 Del. Laws, c. 82, § 18; 33 Del. Laws, c. 84, § 13; Code 1935, §§ 1410, 1443; 9 Del. C. 1953, § 8771; 57 Del. Laws, c. 762, § 24G; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8772. Public notice of sale.

(a) The tax collecting authority shall proceed to advertise the lands and tenements of the taxable by posting handbills in at least 10 public places in the county, 1 of which shall be on the lands to be sold, and 1 at the courthouse, and by publishing the notice or advertisement of sale in a newspaper of the county at least 1 issue before the day fixed for the sale. All sales shall be made at the courthouse door and the handbills and advertisement shall contain the day, hour, place of sale, and a short description of the property to be sold.

(b) In case the owner of any lands and tenements against which a tax shall be levied and assessed is unknown, this fact shall be stated in the advertisement of sale, and in addition to the notice herein required, the advertisement shall be published in some newspaper published in the county in at least 2 successive issues thereof before the day fixed for the sale of the property.

(c) The tax collecting authority shall keep a record of the places where the handbills were posted and of the newspaper in which the advertisement was published, and such record shall be presumptive evidence of such advertisement and posting.

(28 Del. Laws, c. 82, §§ 19, 22; 33 Del. Laws, c. 84, §§ 14, 17; Code 1935, §§ 1411, 1414, 1444, 1447; 9 Del. C. 1953, § 8772; 57 Del. Laws, c. 762, § 24G; 71 Del. Laws, c. 401, § 115.)

## § 8773. Return of sale; deed upon approval of sale.

Every sale of lands and tenements shall be returned by the tax collecting authority to the Superior Court for the county, at the next term thereof, and the Court shall inquire into the circumstances, and either approve the sale, or set it aside. If it be approved, the tax collecting authority making the sale shall make a deed to the purchaser which shall convey the title of the taxable, or of his or her alienee, as the case may be; if it be set aside, the Court may order another sale, and so on until the tax due be collected. The certificate filed, together with the return and deed, shall be presumptive evidence of the regularity of the proceedings.

(28 Del. Laws, c. 82, § 20; 30 Del. Laws, c. 82, § 5; 33 Del. Laws, c. 84, § 15; 37 Del. Laws, c. 105, § 5; 38 Del. Laws, c. 76, § 1; Code 1935, §§ 1412, 1445; 9 Del. C. 1953, § 8773; 57 Del. Laws, c. 762, § 24G; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8774. Adjustment of tax sale proceedings upon change of office of tax collecting authority.

(a) In the event of the death, resignation or removal from office of the tax collecting authority, before the proceedings for the sale of land shall have been completed, the successor in office shall succeed to all of the officer's powers, rights and duties in respect of the sale.

(b) In case the term of office of any tax collecting authority shall expire before the proceedings for the sale of lands shall have been completed, the tax collecting authority shall continue in the powers, duties and responsibilities in respect of the sale until the same shall have been finally approved by the Court.

(c) If any outgoing tax collecting authority shall die or remove from this State before any sale of lands conducted by such authority shall have been approved by the Court, the Superior Court of the county shall have jurisdiction to direct the tax collecting authority then in office to make and complete returns of sale, and to execute and deliver deeds for the land so sold.

(28 Del. Laws, c. 82, § 20; 30 Del. Laws, c. 82, § 5; Code 1935, § 1445; 9 Del. C. 1953, § 8774; 57 Del. Laws, c. 762, § 24G; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8775. Death of purchaser at tax sale.

In the event of the death of the purchaser before the deed shall have been made and delivered, the person or persons having right under the purchaser by descent, devise, assignment, or otherwise, may prefer to the Superior Court for Kent or Sussex County, as the case may be, at any term thereof, a petition representing the facts, and praying for an order authorizing and requiring the tax collecting authority, who would otherwise execute the deed, to execute and acknowledge a deed conveying to the petitioner or petitioners the premises so sold. Thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(Code 1935, § 1445; 42 Del. Laws, c. 113, § 1; 9 Del. C. 1953, § 8775; 57 Del. Laws, c. 762, § 24G; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8776. Approval or disapproval of sale; redemption.

No sale under this subchapter shall be approved by the Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of 1 year from the time of sale, within which time the owner, the owner's heirs, executors or administrators may redeem the lands on payment to the tax collecting authority of the costs, the amount of the purchase money, and 20 percent interest thereon, and expenses of the deeds. Within 3 days from the receipt of redemption moneys as hereinbefore mentioned, the tax collecting authority shall forward the same by mail to the purchaser.

(28 Del. Laws, c. 82, § 23; 33 Del. Laws, c. 84, § 18; Code 1915, §§ 1415, 1448; 45 Del. Laws, c. 128, § 3; 9 Del. C. 1953, § 8776; 57 Del. Laws, c. 762, § 24G; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 401, § 115.)

## § 8777. Action against personal representative of taxable.

The death of any taxable shall not prevent the recovery under this subchapter of any tax due and owing, but the tax collecting authority shall proceed for the collection thereof against the personal representative of such deceased taxable. If the lands and tenements of a deceased taxable are to be sold, it shall be sufficient for the tax collecting authority to suggest the death upon the record and give notice as described in this subchapter to the heirs at law or devisees of the land, as the case may be, and the executor or administrator of such deceased taxable, if any there be within the county.

(28 Del. Laws, c. 82, § 24; 33 Del. Laws, c. 84, § 19; Code 1935, §§ 1416, 1449; 9 Del. C. 1953, § 8777; 57 Del. Laws, c. 762, § 24G; 71 Del. Laws, c. 401, § 115.)

## § 8778. Costs upon sale of lands.

(a) In cases of sale of lands, under this subchapter, for the payment of taxes, the following costs shall be allowed to be deducted from the proceeds of sale, or chargeable against the owner:

| | |
|---|---|
| TO THE PROTHONOTARY: | |
| For filing and recording certificate | $1.00 |
| For filing and recording return of sale | 1.50 |
| TO THE RECEIVER OF TAXES AND COUNTYTREASURER OR THE DIRECTOROF FINANCE: | |
| For preparing certificate | $.25 |
| For making sale of lands | 2.00 |
| For preparing and filing return | 1.50 |
| For posting handbills | 1.00 |

(b) In addition the costs of printing handbills and publication of advertisements of sale under this subchapter, together with the miles necessarily traveled by the tax collecting authority in posting the handbills shall be chargeable as costs. Mileage shall be computed and chargeable at the rate provided by [former] § 9115 [repealed] of this title.

(c) The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser.

(28 Del. Laws, c. 82, § 21; 30 Del. Laws, c. 82, § 6; 33 Del. Laws, c. 84, § 16; Code 1935, §§ 1413, 1446; 9 Del. C. 1953, § 8778; 57 Del. Laws, c. 762, § 24G; 71 Del. Laws, c. 401, § 115.)

## § 8779. Payment of excess from proceeds to owner.

After satisfying the tax due and the costs and expenses of sale from the proceeds of sale under this subchapter, the amount remaining shall be paid at once to the owner of the land, or upon the refusal of the owner to accept the same, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the county either to the credit of the owner, or in a manner by which the fund may be identified.

(28 Del. Laws, c. 82, § 25; 33 Del. Laws, c. 84, § 20; Code 1935, §§ 1417, 1450; 9 Del. C. 1953, § 8779.)

# Part VI
# County Officers
## Chapter 91
## General Provisions

### § 9101. Definitions.

As used in this chapter:

"County offices" or "county officers" means the elected or appointed public officers of the respective counties and includes county council members, Levy Court Commissioners, clerks of the peace, members of the boards of assessment, receivers of taxes and county treasurers, collectors of delinquent taxes, registers of wills, sheriffs, recorders, and any other officer, board, commission, department or agency (other than a court or judge) whose jurisdiction is limited to a single county; provided, however, that the Prothonotaries of New Castle County, Kent County and Sussex County shall not be considered to be county offices.

(9 Del. C. 1953, § 9101; 66 Del. Laws, c. 185, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 91, § 1; 80 Del. Laws, c. 209, § 6; 84 Del. Laws, c. 117, § 2.)

### § 9102. Location of offices.

The county government of each county shall provide and assign office space for the respective county offices and, whenever occasion requires, may change such space and assign different space. The county officers shall occupy, and their offices shall be located, in the space assigned to them from time to time by the county government or chief administrative officer.

(Code 1852, § 24; 15 Del. Laws, c. 331, § 1; 19 Del. Laws, c. 26, § 19; 26 Del. Laws, c. 83, § 4; 26 Del. Laws, c. 84, § 4; Code 1915, §§ 1275, 1431; 29 Del. Laws, c. 77, § 1; Code 1935, §§ 1478, 1589; 9 Del. C. 1953, § 9102; 55 Del. Laws, c. 85, § 26A.)

### § 9103. Record books and supplies.

The county government of each county shall provide for the county offices in their respective counties, the necessary record books, cases, seals and supplies for the use of the offices, for the preservation and security of the public records, the convenience of business, and for public accommodation.

(Code 1852, §§ 24, 460; 19 Del. Laws, c. 26, § 19; 26 Del. Laws, c. 83, § 4; 26 Del. Laws, c. 84, § 4; Code 1915, §§ 386, 1275; 29 Del. Laws, c. 77, § 1; Code 1935, §§ 360, 1478; 9 Del. C. 1953, § 9103; 55 Del. Laws, c. 85, § 26B.)

### § 9104. Records.

The county officers shall keep all records, books, papers and other things belonging to their offices, in their respective offices.

(Code 1852, § 22; Code 1915, § 1430; Code 1935, § 1588; 47 Del. Laws, c. 248, § 1; 48 Del. Laws, c. 298, § 1; 9 Del. C. 1953, § 9104.)

### § 9105. County offices; days open; penalties.

(a) County offices shall be open each day except legal holidays, Saturdays and Sundays.

(b) If a county officer refuses or neglects to attend at his or her office for the transaction of business, as required in subsection (a) of this section, the county officer shall be fined $8.00 for every such offense.

(c) A deputy of any county officer may attend for the performance of such services as are strictly ministerial.

(Code 1852, § 22; Code 1915, § 1430; Code 1935, § 1588; 47 Del. Laws, c. 248, § 1; 48 Del. Laws, c. 298, § 1; 9 Del. C. 1953, § 9105; 70 Del. Laws, c. 186, § 1.)

### § 9106. Saturday as legal holiday for New Castle County and City of Wilmington.

Each Saturday shall be a legal holiday for all elective and appointed officials, deputies, clerks, bailiffs and other employees of New Castle County, including all officials and employees of the government of New Castle County and for all elective officials of the City of Wilmington and for all appointed officers and employees of the Mayor and Council of Wilmington (except members of the Department of Safety and Homeland Security and firefighters).

(Code 1935, § 3321; 47 Del. Laws, c. 143, § 1; 9 Del. C. 1953, § 9106; 55 Del. Laws, c. 85, § 26C; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 110, § 138.)

### § 9107. Authorization to pay employees on day preceding holiday.

Each county government, whenever the pay day for employees falls on a holiday, Saturday or Sunday, may pay the employees their salaries on the day immediately preceding the holiday, Saturday or Sunday.

(47 Del. Laws, c. 172, § 1; 9 Del. C. 1953, § 9107; 55 Del. Laws, c. 85, § 26D.)

### § 9108. Disposition of fees.

All the fees, costs, allowances and other perquisites which are taxable and paid to any county officer for any official service rendered by any such officer, shall be for the sole use of the county of such officer, and when received shall be paid to the receiver of taxes and county treasurer or department of finance thereof.

(23 Del. Laws, c. 60, § 1; 24 Del. Laws, c. 85, § 1; Code 1915, § 1433; 28 Del. Laws, c. 82, § 1; 30 Del. Laws, c. 81, § 1; Code 1935, § 1592; 9 Del. C. 1953, § 9108; 50 Del. Laws, c. 81, § 1; 55 Del. Laws, c. 85, § 26E.)

## § 9109. Duty to account for fees.

(a) Every county officer in each of the counties shall collect all fees, costs and allowances by law taxable by or payable to such officer, without any deduction, abatement or remission, except fees, costs and allowances payable by the county to such officers, and shall keep in a properly indexed fee book an itemized account showing the amount of each fee, item of cost and allowance by law taxable by or payable to such officer, and the service for which the same was rendered or charged, the date of payment and the name of the person paying the same. On or before the fifteenth day in each month, every such officer shall file with the receiver of taxes and county treasurer or department of finance and with the government of the officer's county an account of all fees, costs and allowances received by that officer in the preceding month, which account shall be so itemized that it may be compared with the fees, costs and allowances as entered in the fee book.

(b) The correctness of the accounts so rendered shall be verified by the affidavit of the officer rendering the same. Each of the officers shall also, on or before the fifteenth day in each month, pay over to the receiver of taxes and county treasurer or department of finance all the fees, costs and allowances so received from any source, which shall be payable to the receiver of taxes and county treasurer or department of finance as provided in § 9108 of this title.

(23 Del. Laws, c. 60, § 2; 24 Del. Laws, c. 85, § 1; 24 Del. Laws, c. 86, § 1; Code 1915, § 1434; 28 Del. Laws, c. 82, § 1; 30 Del. Laws, c. 81, §§ 1-3; Code 1935, § 1593; 9 Del. C. 1953, § 9109; 50 Del. Laws, c. 81, § 2; 55 Del. Laws, c. 85, § 26E; 70 Del. Laws, c. 186, § 1.)

## § 9110. Fee book; inspection and examination.

The fee book mentioned in this chapter shall be a part of the records of the office for which it is kept, and shall be at all times open to inspection and examination.

(23 Del. Laws, c. 60, § 12; Code 1915, § 1444; Code 1935, § 1603; 9 Del. C. 1953, § 9110.)

## § 9111. Audit of fees.

The Departments of Finance of New Castle County and of Sussex County shall, during the months of January and July in each year, audit, inspect, and examine the books, accounts, papers, records, and dockets of the several county officers and ascertain the amounts due to the county in fees. During those months, the Departments of Finance of New Castle County and of Sussex County shall report in writing to their respective county governments, which shall cause the same to be entered at large upon their minutes and published for public distribution.

(23 Del. Laws, c. 60, § 5; 26 Del. Laws, c. 83, § 8; 26 Del. Laws, c. 84, § 8; Code 1915, § 1437; Code 1935, § 1596; 9 Del. C. 1953, § 9111; 55 Del. Laws, c. 85, § 26F; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 209, § 7.)

## § 9112. Liability for fees.

Each county officer is made liable upon his or her respective official bond, for the payment to the receiver of taxes and county treasurer or the department of finance of the county of such officer of all the fees which such officer shall collect. All the official bonds to be entered into by the officers shall contain the following condition: "And if the said . . . . . shall truly and without delay pay over to the Receiver of Taxes and County Treasurer or the Department of Finance all the fees which it shall be his or her duty to collect and which are to be paid to the Receiver of Taxes and County Treasurer or the Department of Finance." The county government shall cause proceedings to be brought on any of the bonds for the breach of the foregoing condition for the recovery of the penalty therein.

(23 Del. Laws, c. 60, § 3; Code 1915, § 1435; 28 Del. Laws, c. 82, § 1; 30 Del. Laws, c. 81, §§ 1-3; Code 1935, § 1594; 9 Del. C. 1953, § 9112; 55 Del. Laws, c. 85, §§ 26E, 26G; 70 Del. Laws, c. 186, § 1.)

## § 9113. Penalties for failure to collect and pay over fees.

(a) If any county officer fails, neglects or refuses for 10 days to pay over all fees, costs, allowances and perquisites he or she receives and collects for use of the county of such officer, or fails to collect the fees required to be paid by law, or demands or receives from any person any fee or allowance greater than is provided by law, he or she shall be fined not more than $1,000, or imprisoned not more than 1 year, or both. Such officer shall also be liable in a civil action for the amount of such fees, costs, allowances and perquisites as he or she may have thus illegally withheld.

(b) Whenever any officer is convicted under this section, it shall operate as a forfeiture of his or her office, and he or she shall be removed from office by the Governor within 10 days from the date of such conviction.

(23 Del. Laws, c. 60, § 11; Code 1915, § 1442; Code 1935, § 1601; 9 Del. C. 1953, § 9113; 70 Del. Laws, c. 186, § 1.)

## § 9114. Bonds of recorder, clerk of the peace and register of wills.

(a) Every recorder and clerk of the peace, elected or appointed for any county shall, at the next term of the Superior Court in that county, after their election or appointment, before entering upon the duties of the office, become bound to the State with sufficient surety by a joint and several obligation in the penalty of $3,000 with condition "that if the above named . . . . . who has been duly elected (or appointed) to be . . . . . shall and do well and diligently execute the office of . . . . . as aforesaid and duly and faithfully fulfill and perform all the trusts and duties to the said office appertaining, and truly and without delay deliver to the successor in office, the seal and all the

books, records and papers belonging to said office safe and undefaced, and if the said . . . . . shall truly and without delay pay over to the Receiver of Taxes and County Treasurer or Department of Finance all the fees which it shall be the recorder's or clerk of the peace's duty to collect and which are to be paid to the Receiver of Taxes and County Treasurer or Department of Finance, then this obligation shall be void and of no effect, or else shall remain in full force and virtue."

(b) The Register of Wills of New Castle County shall be required to give bond for the sum of $10,000; the Register of Wills of Kent County shall be required to give bond for $5,000; and the Register of Wills of Sussex County shall be required to give bond for $5,000. The bonds shall be in the form provided in subsection (a) of this section and shall be approved by the Resident Judge of the respective counties and the bond shall be executed in each case by the Register of Wills before entering upon the discharge of Register of Wills office.

(c) The acknowledgment and approval of all the obligations specified in this section shall be certified by the Judges of the Superior Court then present.

(d) The obligation of the recorder shall be recorded in the Judgment Docket of the Superior Court, and shall be filed there. The other obligations required by this section shall be forthwith delivered to the recorder to be recorded and filed in the recorder's office.

(Code 1852, §§ 441-443; 14 Del. Laws, c. 42; 16 Del. Laws, c. 24; 23 Del. Laws, c. 60, § 3; Code 1915, § 379; 30 Del. Laws, c. 43; Code 1935, § 348; 41 Del. Laws, c. 74; 9 Del. C. 1953, § 9114; 51 Del. Laws, c. 120; 55 Del. Laws, c. 85, § 26E; 66 Del. Laws, c. 185, § 2; 70 Del. Laws, c. 186, § 1; 84 Del. Laws, c. 42, § 1; 84 Del. Laws, c. 117, § 3.)

## § 9115. Bond of Register in Chancery [Repealed].

Repealed by 73 Del. Laws, c. 91, § 2, effective Jan. 1, 2002.

## § 9116. Cancellation of bonds.

The several bonds and recognizances of the several officers provided for in §§ 9114 and [former] 9115 [repealed] of this title as well as the official bond of any constable of the several counties shall be cancelled 3 years after the expiration of the terms of office of the several officers and such constable and shall after such time cease to be a lien on any property of any kind of the several officers and such constable or their respective bondsmen.

(Code 1915, § 379A; 28 Del. Laws, c. 34; Code 1935, § 349; 46 Del. Laws, c. 56; 9 Del. C. 1953, § 9116; 70 Del. Laws, c. 186, § 1.)

## § 9117. Satisfaction of bonds.

The bonds filed and recorded in the offices of the recorders of deeds in this State shall at the time designated in § 9116 of this title be marked by the recorder "cancelled" and under the word "cancelled" the recorder shall sign his or her name as recorder and shall affix the official seal of his or her office. The bond filed and recorded in the offices of the prothonotaries of the Superior Courts in this State shall at the time designated in § 9116 of this title be marked by the prothonotary "cancelled" and under the word "cancelled" the prothonotary shall sign his or her name as prothonotary and shall affix the official seal of his or her office, and the original bonds shall be returned to the obligors, or if they are dead, to their legal representatives.

(Code 1915, § 379B; 28 Del. Laws, c. 34; Code 1935, § 350; 9 Del. C. 1953, § 9117; 70 Del. Laws, c. 186, § 1.)

## § 9118. Bond of sheriffs.

(a) Every sheriff elected or appointed in any of the counties of this State, before entering upon that sheriff's office, shall, with sufficient surety or sureties, become bound to the State, by a joint and several obligation to be, with the surety or sureties therein, approved by the Judge resident in the county, for which the sheriff had been elected, namely: the Sheriff of New Castle County, $25,000; the Sheriff of Kent County, $14,000; and the Sheriff of Sussex County, $12,000. The bonds shall be given upon condition that "If the Sheriff shall and do well and truly serve and execute all writs and processes to him or her directed, without delay and shall, from time to time, upon request to him or her made for that purpose well and truly pay or cause to be paid to the several suitors and parties interested therein, their lawful agent, factors or assigns, and to the several officers all and every sum or sums of money to them respectively belonging, which shall come to his or her hands or which it shall be his or her duty to collect and receive, and receive, collect, and pay over all public taxes whatsoever committed to him or her for collection, and shall do from time to time, and at all times during his or her continuation in office, of Sheriff, well and faithfully execute the office and perform in everything the duty in him or her reposed, and the Sheriff shall truly and without delay pay over to the County Treasurer or the Director of Finance all the fees which it shall be his or her duty to collect, and which are to be paid to the County Treasurer or the Director of Finance, then the bond to be void, otherwise to be and remain in full force and virtue." This bond shall be entered at large upon the continuance record of the Superior Court of the same county at the time it is taken, and the approval of the surety or sureties and of the bond shall appear on the record.

(b) If any sheriff neglects so to enter into such bond such sheriff shall, ipso facto, forfeit his or her office. The prothonotary shall forthwith certify such neglect to the Governor, who shall thereupon appoint another person, being an inhabitant of the same county, to fill the vacancy until the next general election and qualification of a successor. The Governor shall duly notify the prothonotary of every appointment of a sheriff to fill a vacancy.

(Code 1852, §§ 448-451; 16 Del. Laws, c. 14; 17 Del. Laws, c. 34; 21 Del. Laws, c. 202; 25 Del. Laws, c. 55; Code 1915, §§ 382, 383; Code 1935, §§ 356, 357; 9 Del. C. 1953, § 9118; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 213, § 5.)

## § 9119. Violation of bond requirements; penalty.

Whoever, being an officer within the provisions of §§ 9114 and [former] 9115 [repealed] of this title, neglects to comply with such sections, shall be fined not less than $500 nor more than $1,000, and shall, ipso facto, forfeit his or her office.

(Code 1852, § 444; Code 1915, § 380; Code 1935, § 353; 9 Del. C. 1953, § 9119; 70 Del. Laws, c. 186, § 1.)

## § 9120. Bonds of officers in Sussex County.

Every public officer of Sussex County who is required by law to give a bond for the faithful performance of his or her duties to be approved by the judges of the Superior Court or Court of Chancery shall execute such bond before entering upon the duties of his or her office with sufficient sureties to be approved by any Judge of the Superior Court, which bond shall afterwards be submitted to the Judge of the Superior Court or the Chancellor, as the case may be, for approval as now provided by law. The bond shall have all the force and effect now given by law to such official bonds. The Judges or Chancellor may at any time require additional surety.

(30 Del. Laws, c. 90, § 1; Code 1935, § 1591; 9 Del. C. 1953, § 9120; 70 Del. Laws, c. 186, § 1.)

## § 9121. Uniform mileage payments.

The authorized mileage rate for officers or employees of the several counties who receive mileage from the respective county governments for miles driven in their private motor vehicles shall be at a rate to be determined by levy court or county council.

(48 Del. Laws, c. 235, § 1; 9 Del. C. 1953, § 9121; 50 Del. Laws, c. 238, § 1; 55 Del. Laws, c. 85, § 26H; 57 Del. Laws, c. 370; 60 Del. Laws, c. 11, § 1; 63 Del. Laws, c. 40, § 1; 68 Del. Laws, c. 39, § 1; 69 Del. Laws, c. 184, § 3.)

## § 9122. Posting of fee lists.

Every county officer who keeps a public office shall post in some convenient and conspicuous place therein a printed or written list of the fees prescribed in this part, as they relate to him or her.

(Code 1852, § 2834; Code 1915, § 4887; Code 1935, § 5375; 9 Del. C. 1953, § 9122; 70 Del. Laws, c. 186, § 1.)

## § 9123. Construction of fee provisions; time for payment of fees.

Fees shall be construed strictly and no fee shall be allowed for any service, except where otherwise expressly provided, until it has been actually performed.

(Code 1852, § 2836; Code 1915, § 4889; Code 1935, § 5377; 9 Del. C. 1953, § 9123.)

## § 9124. Payment of salaries.

Payment of salaries of all county officers, deputies, clerks and employees payable by New Castle County, shall be paid by warrants drawn by the government of New Castle County on the Department of Finance, in such installments and upon such dates as the government of New Castle County shall designate, upon the certificate in writing of the officer employing them that they have faithfully performed their duties up to the end of the payroll period.

(9 Del. C. 1953, § 9124; 54 Del. Laws, c. 203, § 1.)

## § 9125. Chief deputies.

(a) The clerk of the peace, Sheriff, Recorder of Deeds and Register of Wills in New Castle County each may select and employ 1 chief deputy who shall serve at the pleasure of the appointing officeholder. The provisions of this section shall not authorize any elected officeholder to increase the number of employees in any of the several county offices.

(b) The compensation to be paid the chief deputy shall be set by the appointing officeholder. However, the compensation shall not exceed the salary set by statute for the officeholder, except that the salary of the Sheriff's chief deputy shall not exceed the highest salary set pursuant to this subsection.

(9 Del. C. 1953, § 9125; 57 Del. Laws, c. 519, § 2; 60 Del. Laws, c. 202, § 1; 62 Del. Laws, c. 9, § 1; 66 Del. Laws, c. 185, § 3; 73 Del. Laws, c. 91, § 3.)

# Part VI
# County Officers

## Chapter 92
## Deputies and Clerks

### § 9201. Duties and responsibilities of officers appointing deputies and clerks.

All deputies and clerks shall be under the control of the officer by whom they are selected and employed, who may discharge any such deputy or clerk at any time. The officer shall be responsible for all the official acts, neglects and defaults of all deputies and clerks that officer employs.

(23 Del. Laws, c. 60, § 10; Code 1915, § 1441; Code 1935, § 1600; 9 Del. C. 1953, § 9201; 70 Del. Laws, c. 186, § 1.)

### § 9202. Powers and duties of chief deputies.

The chief deputy or, if there is no chief deputy, the deputy employed by each of the officers shall be possessed of all the authority of their respective offices, and in the absence or disability of the duly elected officer, the chief deputy or deputy of such officer shall perform all the duties of the office, until the vacancy so created shall be filled as required by the Constitution or statutes of the State.

(23 Del. Laws, c. 60, § 9; 27 Del. Laws, c. 73, § 1; Code 1915, §§ 1275, 1439; 29 Del. Laws, c. 77, § 1; 29 Del. Laws, c. 91, § 1; 35 Del. Laws, c. 76, § 2; 40 Del. Laws, c. 139, § 2; Code 1935, §§ 1478, 1598; 43 Del. Laws, c. 120, § 1; 44 Del. Laws, c. 100, § 3; 9 Del. C. 1953, § 9202.)

### § 9203. Payment of salaries.

The salaries of deputies and clerks, payable by Kent County, shall be paid to them by warrants drawn by the government of Kent County on the Receiver of Taxes and County Treasurer, upon the certificate in writing of the officer employing them that they have faithfully performed their duties during the preceding month.

(23 Del. Laws, c. 60, § 9; 24 Del. Laws, c. 87, § 2; 27 Del. Laws, c. 73, § 1; Code 1915, § 1440; 32 Del. Laws, c. 85, § 1; 36 Del. Laws, c. 126, § 1; 40 Del. Laws, c. 136, § 2; Code 1935, § 1599; 43 Del. Laws, c. 120, § 2; 9 Del. C. 1953, § 9203; 51 Del. Laws, c. 103, §§ 2, 3; 54 Del. Laws, c. 203, § 2; 55 Del. Laws, c. 85, § 27A; 57 Del. Laws, c. 762, § 26A.)

### § 9204. Employment of extra clerks.

(a) Except as provided otherwise by law, the Resident Judge of New Castle County may authorize any county officer in his or her County, whose office is a constitutional office, to employ clerks in addition to those specified by law when such Judge deems such employment necessary for the proper performance of the public work required of such officer. In Kent County, the county government may fix the number of clerks employed.

(b) Any additional clerks employed under the provisions of subsection (a) of this section, shall receive the same compensation as is fixed by law for the other clerks performing like or similar services, and shall be paid in like manner.

(Code 1915, § 1439; 29 Del. Laws, c. 91, § 1; 29 Del. Laws, c. 92, § 1; 30 Del. Laws, c. 91, § 1; 31 Del. Laws, c. 13, § 16; 32 Del. Laws, c. 67, § 1; 35 Del. Laws, c. 79, § 1; 40 Del. Laws, c. 139, § 2; Code 1935, §§ 1191, 1598; 43 Del. Laws, c. 120, § 1; 44 Del. Laws, c. 100, § 2; 45 Del. Laws, c. 137, § 1; 9 Del. C. 1953, § 9204; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 213, § 6.)

### § 9205. Application in New Castle County.

The provisions of this chapter shall not apply to New Castle County. In New Castle County the provisions of [former] subchapter IX of Chapter 13 of this title [repealed] shall apply.

(9 Del. C. 1953, § 9206; 55 Del. Laws, c. 85, § 27B.)

### § 9206. Application in Sussex County.

The provisions of this chapter shall not apply to Sussex County. In Sussex County, the provisions of § 7006 of this title shall apply.

(9 Del. C. 1953, § 9207; 57 Del. Laws, c. 762, § 26B.)

# Part VI
# County Officers

## Chapter 93
## County Comptrollers [Repealed].

(Repealed by 80 Del. Laws, c. 209, § 1.)

### § 9301. Election, qualifications and term [Repealed].

(19 Del. Laws, c. 26, § 16; 26 Del. Laws, c. 83, § 1; 26 Del. Laws, c. 84, § 1; Code 1915, § 1273; Code 1935, § 1476; 9 Del. C. 1953, § 9301; 55 Del. Laws, c. 85, § 28A; 65 Del. Laws, c. 360, § 1; 70 Del. Laws, c. 186, § 1; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9302. Bond [Repealed].

(19 Del. Laws, c. 26, § 16; 26 Del. Laws, c. 83, § 1; 26 Del. Laws, c. 84, § 1; Code 1915, § 1273; Code 1935, § 1476; 9 Del. C. 1953, § 9302; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 213, § 7; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9303. Oath [Repealed].

(19 Del. Laws, c. 26, § 16; 26 Del. Laws, c. 83, § 1; 26 Del. Laws, c. 84, § 1; Code 1915, § 1273; Code 1935, § 1476; 9 Del. C. 1953, § 9303; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 213, § 8; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9304. Vacancy; appointment of successor [Repealed].

(19 Del. Laws, c. 26, §§ 16, 20; 26 Del. Laws, c. 83, §§ 1, 5; 26 Del. Laws, c. 84, §§ 1, 5; Code 1915, §§ 1273, 1276; Code 1935, §§ 1476, 1479; 9 Del. C. 1953, § 9304; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9305. Duties and powers [Repealed].

(19 Del. Laws, c. 26, §§ 12, 17; 20 Del. Laws, c. 386, § 1; 22 Del. Laws, c. 273, § 3; 23 Del. Laws, c. 60, § 5; 26 Del. Laws, c. 83, §§ 2, 8; 26 Del. Laws, c. 84, §§ 2, 8; 27 Del. Laws, c. 93, § 1; 27 Del. Laws, c. 275; Code 1915, § 1274; Code 1935, § 1477; 9 Del. C. 1953, § 9305; 54 Del. Laws, c. 76; 55 Del. Laws, c. 85, § 28B; 69 Del. Laws, c. 453, §§ 1-3; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 91, § 4; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9306. Compensation [Repealed].

(19 Del. Laws, c. 26, § 20; 24 Del. Laws, c. 80, § 1; 26 Del. Laws, c. 83, § 5; 26 Del. Laws, c. 84, § 5; 27 Del. Laws, c. 94, § 1; Code 1915, §§ 1275, 1438; 29 Del. Laws, c. 77, § 1; 30 Del. Laws, c. 84, § 1; 31 Del. Laws, c. 15, § 1; 32 Del. Laws, c. 83, § 1; 35 Del. Laws, c. 76, § 1; Code 1935, § 1478; 43 Del. Laws, c. 115, § 1; 44 Del. Laws, c. 96, § 1; 45 Del. Laws, c. 139, § 1; 46 Del. Laws, c. 298, § 1; 48 Del. Laws, c. 153, § 1; 9 Del. C. 1953, § 9306; 49 Del. Laws, c. 290, § 3; 49 Del. Laws, c. 310; 50 Del. Laws, c. 423, § 1; 52 Del. Laws, c. 174, § 9; 53 Del. Laws, c. 38, § 1; 53 Del. Laws, c. 222, § 2; 54 Del. Laws, c. 23, § 3; 54 Del. Laws, c. 203, § 3; 54 Del. Laws, c. 215, § 2; 55 Del. Laws, c. 85, § 28C; 57 Del. Laws, c. 692, § 4; 61 Del. Laws, c. 506, § 3; 65 Del. Laws, c. 163, § 5; 65 Del. Laws, c. 358, § 1; 67 Del. Laws, c. 255, § 3; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9307. Deputy Comptroller; employment; salary [Repealed].

(30 Del. Laws, c. 84, § 1; 35 Del. Laws, c. 76, § 1; Code 1935, § 1478; 43 Del. Laws, c. 115, § 1; 44 Del. Laws, c. 96, § 1; 44 Del. Laws, c. 97, § 1; 45 Del. Laws, c. 109, §§ 1, 2; 45 Del. Laws, c. 139; 46 Del. Laws, c. 298, §§ 1, 2; 47 Del. Laws, c. 192; 48 Del. Laws, c. 153, § 1; 9 Del. C. 1953, § 9307; 55 Del. Laws, c. 85, § 28D; 57 Del. Laws, c. 557; 65 Del. Laws, c. 360, § 2; 74 Del. Laws, c. 45, § 2; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9308. Assistants and clerical help [Repealed].

(19 Del. Laws, c. 26, § 21; 26 Del. Laws, c. 83, § 6; 26 Del. Laws, c. 84, § 6; Code 1915, § 1275; 29 Del. Laws, c. 77, § 1; Code 1935, § 1478; 9 Del. C. 1953, § 9308; 53 Del. Laws, c. 8; 53 Del. Laws, c. 236; 70 Del. Laws, c. 186, § 1; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9309. Removal from office for neglect or malfeasance [Repealed].

(19 Del. Laws, c. 26, § 20; 26 Del. Laws, c. 83, § 5; 26 Del. Laws, c. 84, § 5; Code 1915, § 1276; Code 1935, § 1479; 9 Del. C. 1953, § 9309; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9310. Comptroller of Sussex County; appointment as notary public [Repealed].

(Code 1915, § 1274A; 29 Del. Laws, c. 76, § 1; Code 1935, § 1477; 9 Del. C. 1953, § 9310; 70 Del. Laws, c. 186, § 1; repealed by 80 Del. Laws, c. 209, § 1.)

### § 9311. Power of comptroller with respect to warrants [Repealed].

(31 Del. Laws, c. 13, § 10; Code 1935, § 1190; 9 Del. C. 1953, § 9311; 70 Del. Laws, c. 186, § 1; repealed by 80 Del. Laws, c. 209, § 1.)

## § 9312. Construction [Repealed].

(9 Del. C. 1953, § 9312; 57 Del. Laws, c. 762, § 27; 70 Del. Laws, c. 186, § 1; repealed by 80 Del. Laws, c. 209, § 1.)

# Part VI
# County Officers

## Chapter 94
## Clerks of the Peace

### § 9401. Oath and bond.

Every clerk of the peace, before entering upon the clerk's official duties, shall take and subscribe the oath of office prescribed by the Delaware Constitution, and shall give bond as required by § 9114 of this title.

(Code 1852, § 118; Code 1915, § 1283; Code 1935, § 1482; 9 Del. C. 1953, § 9401; 70 Del. Laws, c. 186, § 1.)

### § 9402. Compensation.

The clerks of the peace in the respective counties shall receive the annual salaries listed below:

(1) In New Castle County, as fixed by the New Castle County government;

(2) In Kent County the clerk of the peace of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court; and

(3) In Sussex County the clerk of the peace of Sussex County shall receive a salary in an amount to be set by ordinance of the Sussex County Council.

(23 Del. Laws, c. 60, § 7; 24 Del. Laws, c. 84, § 1; Code 1915, § 1438; 40 Del. Laws, c. 139, § 1; Code 1935, § 1597; 44 Del. Laws, c. 98, § 1; 45 Del. Laws, c. 138, § 1; 46 Del. Laws, c. 298, § 1; 9 Del. C. 1953, § 9402; 49 Del. Laws, c. 290, § 4; 49 Del. Laws, c. 306; 50 Del. Laws, c. 479, § 1; 52 Del. Laws, c. 174, § 10; 53 Del. Laws, c. 38, § 2; 53 Del. Laws, c. 222, § 3; 54 Del. Laws, c. 23, § 1; 54 Del. Laws, c. 215, § 3; 57 Del. Laws, c. 692, § 5; 58 Del. Laws, c. 17; 59 Del. Laws, c. 514, § 5; 61 Del. Laws, c. 506, § 4; 65 Del. Laws, c. 163, § 6; 65 Del. Laws, c. 216, § 1; 67 Del. Laws, c. 255, § 4; 68 Del. Laws, c. 234, § 1.)

### § 9403. Deputies and clerks.

The clerks of peace in Kent and Sussex Counties may employ such chief deputy, deputies and clerks as are authorized by the government of the county, at compensations fixed by such county government. In Kent County, minimum qualifications may be established by the county government for each position, and said minimum qualifications and compensation and any subsequent adjustments thereto shall have the concurrence of the clerk of the peace.

(23 Del. Laws, c. 60, § 8; 24 Del. Laws, c. 86, § 2; 27 Del. Laws, c. 73, § 1; Code 1915, § 1439; 29 Del. Laws, c. 91, § 1; 29 Del. Laws, c. 92, § 1; 30 Del. Laws, c. 91, § 1; 31 Del. Laws, c. 17, § 1; 32 Del. Laws, c. 67, § 1; 35 Del. Laws, c. 79, § 1; 40 Del. Laws, c. 139, § 2; Code 1935, §§ 1191, 1598; 43 Del. Laws, c. 120, § 1; 44 Del. Laws, c. 100, §§ 1, 2; 44 Del. Laws, c. 101, § 1; 45 Del. Laws, c. 109, §§ 1, 2; 46 Del. Laws, c. 298, §§ 1, 2; 47 Del. Laws, c. 192; 48 Del. Laws, c. 111, § 1; 9 Del. C. 1953, § 9403; 49 Del. Laws, c. 34; 55 Del. Laws, c. 85, § 29B; 74 Del. Laws, c. 45, § 3.)

### § 9404. Clerk of the county government.

(a) The clerk of the peace shall be clerk of the government of his or her county.

(b) This section shall not apply to the clerks of the peace of Sussex or New Castle Counties.

(Code 1852, § 147; 22 Del. Laws, c. 52, § 3; 22 Del. Laws, c. 54, §§ 5, 11; Code 1915, § 1284; 28 Del. Laws, c. 76; 31 Del. Laws, c. 13; Code 1935, § 1483; 9 Del. C. 1953, § 9404; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

### § 9405. Duties as clerk of the county government.

(a) The clerk of the peace shall safely keep the books and papers of the county government, and make full and true minutes of all the proceedings thereof. The clerk of the peace shall observe the orders and rules of the county government in all things relating to the duties of his or her office.

(b) This section shall not apply to the clerks of the peace of New Castle or Sussex Counties.

(Code 1852, § 147; Code 1915, § 1297; Code 1935, § 1495; 9 Del. C. 1953, § 9405; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

### § 9406. Deposit of public moneys; penalty.

(a) The clerk of the peace shall deposit daily to the credit of the State Treasurer and the receiver of taxes and county treasurer, respectively, in the Farmers' Bank at the county seat of the clerk of the peace, all moneys received by him or her and payable to the State or county, and thereupon send to the State Treasurer and the receiver of taxes and county treasurer, respectively, by mail, a certificate of deposit.

(b) Whoever, being a clerk of the peace, wilfully fails or neglects to make the deposit of moneys required by this section, within the time herein prescribed, shall be fined in such amount or imprisoned for such term, or both, as the court, in its discretion, may determine, and shall forfeit, ipso facto, his or her office and such failure to put into the post office, within the prescribed time, the certificate of

deposit required by this section, duly addressed to the State Treasurer or receiver of taxes and county treasurer, shall be a breach of the condition of his or her official bond.

(c) This section shall not apply to the Clerk of the Peace of New Castle County.

(Code 1852, §§ 127, 128; 14 Del. Laws, c. 370, § 1; Code 1915, § 1286; 28 Del. Laws, c. 82; 30 Del. Laws, c. 81; Code 1935, § 1485; 9 Del. C. 1953, § 9406; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

## § 9407. Monthly accounting to State Treasurer; penalties.

(a) The clerk of the peace shall, not later than the tenth day of each month, plainly state under his or her hand, and render to the State Treasurer, with a copy thereof to the Auditor of Accounts, a full and true account of all money by him or her received, during the next preceding calendar month, or for which he or she is accountable to the State, for all fees for licenses and fees of every description payable to the State. The clerk of the peace shall deposit, at the time prescribed by § 9406 of this title, to the credit of the State Treasurer, in the Farmers' Bank at the county seat, the full amount due on such accounts, and send such accounts to the State Treasurer by mail, with a certificate of such deposit thereon endorsed. Nothing in this section shall prevent more frequent settlements by the clerk of the peace with the State Treasurer.

(b) Whoever, being a clerk of the peace, wilfully fails or neglects to render such accounts or to make such deposits within the time prescribed, shall, besides being liable for the money due the State, be fined not less than $500 nor more than $2,000. Conviction of such offense shall of itself work a forfeiture of his or her office. The official obligation of each clerk of the peace shall extend to and embrace the moneys received, or which ought to be received as aforesaid, and the duties required of him or her. Every wilful failure or neglect to make such account or deposit, as also a wilful failure or neglect to put into the post office, within the time prescribed, such account, with the certificate of deposit endorsed thereon, duly addressed to the State Treasurer, shall be a breach of his or her official obligation.

(c) This section shall not apply to the Clerk of the Peace of New Castle County.

(Code 1852, §§ 129, 130; 13 Del. Laws, c. 117, § 8; 14 Del. Laws, c. 418, § 3; 20 Del. Laws, c. 377; 25 Del. Laws, c. 8, § 4; 25 Del. Laws, c. 49; 26 Del. Laws, c. 16, § 21; Code 1915, § 1287; Code 1935, § 1486; 9 Del. C. 1953, § 9407; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

## § 9408. Audit; penalty.

(a) The records and accounts of the clerk of the peace respecting fees for licenses and receipts of every description payable to the State shall be open to inspection and audit by such agency of the State as is authorized to audit the accounts of state agencies.

(b) The provisions of § 6510 of Title 29 shall apply to the clerk of the peace, and any violation of such section shall be a breach of the official bond of the clerk of the peace.

(c) This section shall not apply to the Clerk of the Peace of New Castle County.

(Code 1852, § 132; Code 1915, § 1289; Code 1935, § 1488; 9 Del. C. 1953, § 9408; 55 Del. Laws, c. 85, § 29A.)

## § 9409. Transcripts concerning county accounts.

(a) The clerk of the peace shall deliver to the receiver of taxes and county treasurer or director of finance of his or her county certified transcripts of all allowances made by the government of his or her county; and of the amount to be collected; and of all matters that shall concern the receiver of taxes and county treasurer or director of finance or be requisite for keeping the accounts of the respective counties.

(b) This section shall not apply to the Clerk of the Peace of New Castle County.

(Code 1852, § 148; Code 1915, § 1298; 28 Del. Laws, c. 82; 30 Del. Laws, c. 81; 40 Del. Laws, c. 135; Code 1935, § 1496; 9 Del. C. 1953, § 9409; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

## § 9410. Assessment lists; delivering copies.

(a) After the assessment lists have been certified to the county government, as provided by law, the clerk of the peace of the county shall immediately make, from the assessment lists, collectors' duplicates to be delivered to the receiver of taxes and county treasurer or director of finance in his or her county, as provided by law, which copies shall be the only ones required to be made by the clerk of the peace.

(b) The original assessment lists shall be retained by the clerk of the peace, and no further copy shall be required for the records of his or her office.

(c) This section shall not apply to the Clerk of the Peace of New Castle County.

(25 Del. Laws, c. 34, §§ 1, 2; Code 1915, § 1300; 30 Del. Laws, c. 77, § 12; 30 Del. Laws, c. 78, § 6; 31 Del. Laws, c. 14, § 20; 40 Del. Laws, c. 135; Code 1935, § 1497; 9 Del. C. 1953, § 9410; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

## § 9411. Penalty.

(a) Whoever, being a clerk of the peace, omits to perform any of the duties provided in § 9409 or 9410 of this title, shall be fined not less than $20 nor more than $50.

(b) This section shall not apply to the Clerk of the Peace of New Castle County.

(Code 1852, § 153; Code 1915, § 1302; Code 1935, § 1498; 9 Del. C. 1953, § 9411; 55 Del. Laws, c. 85, § 29A.)

## § 9412. Certification of appointed constables.

(a) The clerk of the peace shall, within 10 days after the appointment by the government of his or her county of any constable, send by mail to the Auditor of Accounts a true certificate of the name of every such constable, stating therein who is, and who is not, liable to the payment of a fee of $5.00, according to law.

(b) This section shall not apply to the clerk of the peace of New Castle County.

(Code 1852, § 131; Code 1915, § 1288; Code 1935, § 1487; 9 Del. C. 1953, § 9412; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

## § 9413. Marriage licenses.

(a) The clerks of the peace in the respective counties shall dispense all marriage licenses directed by law to be issued by them. Blanks for all such licenses shall be furnished by the Department of Health and Social Services pursuant to the provisions of § 113 of Title 13. For such licenses the clerks of the peace shall demand and receive, for the use of the State, the fees prescribed by law.

(b) This section shall not apply to the clerk of the peace of New Castle County.

(Code 1852, § 133; Code 1915, § 1290; 30 Del. Laws, c. 239; Code 1935, § 1489; 9 Del. C. 1953, § 9413; 55 Del. Laws, c. 85, § 29A; 57 Del. Laws, c. 560, § 2.)

## § 9414. Furnishing marriage licenses to justices of the peace.

(a) The clerk of the peace shall furnish to any justice of the peace in his or her county, upon payment of the fee to the State, as many marriage licenses as the justice may desire. No person other than such clerk of the peace or justice shall dispense or distribute the licenses. The clerk of the peace, upon dispensing such marriage license, shall notify the State Registrar of Vital Statistics, as provided by law.

(b) This section shall not apply to the clerk of the peace of New Castle County.

(Code 1852, § 138; 18 Del. Laws, c. 16; 18 Del. Laws, c. 459; 27 Del. Laws, c. 84, § 15; 27 Del. Laws, c. 261, § 4; Code 1915, § 1291; Code 1935, § 1490; 9 Del. C. 1953, § 9414; 55 Del. Laws, c. 85, § 29A; 70 Del. Laws, c. 186, § 1.)

## § 9415. Record of marriage licenses.

(a) Every clerk of the peace of the State shall procure a suitable book for marriage licenses, in which shall be entered alphabetically the name of every person, to whom shall be issued a license, together with the post-office address and street and number of the city, village or town where the person resides, together with the date the license was issued and the amount paid for same, which entry shall be made within 24 hours of the issuance of every such license. The books shall be procured in accordance with § 113 of Title 13 and furnished to the several clerks of the peace upon their request.

(b) This section shall not apply to the clerk of the peace of New Castle County.

(27 Del. Laws, c. 54; Code 1915, § 1295; 36 Del. Laws, c. 73; 40 Del. Laws, c. 30, §§ 1, 2; Code 1935, § 1494; 9 Del. C. 1953, § 9415; 55 Del. Laws, c. 85, § 29A.)

## § 9416. Administering oaths.

The clerk of the peace in each county may administer oaths or affirmations in all cases relating to the business of the office of clerk of the peace.

(17 Del. Laws, c. 21; Code 1915, § 1307; Code 1935, § 1500; 9 Del. C. 1953, § 9416.)

## § 9417. Destruction of county papers.

The clerk of the peace shall, on and after the expiration of 5 years from their date, destroy poll lists of elections, individual bills settled and paid by the county, and such papers as may and do not become a matter of permanent record of the county or State in the office. The destruction of the papers shall be under and by the supervision of the prothonotary and the register of wills of each county.

(14 Del. Laws, c. 38, §§ 1, 2; Code 1915, § 1308; Code 1935, § 1501; 9 Del. C. 1953, § 9417.)

## § 9418. License fees.

(a) The fees of the Clerk of the Peace for Kent County shall be established by ordinance of the governing body of Kent County.

(b) This section shall not apply to the Clerk of the Peace of New Castle County.

(c) The fees of the Clerk of the Peace for Sussex County shall be as established by ordinance.

(Code 1852, § 2790; 14 Del. Laws, c. 103; 26 Del. Laws, c. 33; Code 1915, §§ 1306, 4856; 40 Del. Laws, c. 30; Code 1935, §§ 1499, 5350; 9 Del. C. 1953, § 9418; 55 Del. Laws, c. 85, § 29A; 64 Del. Laws, c. 149, § 6; 65 Del. Laws, c. 401, § 1.)

# Part VI
# County Officers
## Chapter 96
## Recorders

### § 9601. Election; term of office.

There shall be a recorder in each county who shall be elected at the general elections for a term of 4 years commencing on the first Tuesday in January next after his or her election.

(Code 1852, §§ 637, 638; Code 1915, §§ 1371, 1372; Code 1935, §§ 1543, 1544; 9 Del. C. 1953, § 9601; 70 Del. Laws, c. 186, § 1.)

### § 9602. Compensation.

The recorders in the respective counties shall receive the annual salaries listed below:

(1) In New Castle County, as fixed by the New Castle County government;

(2) In Kent County the Recorder of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court; and

(3) In Sussex County the Recorder of Sussex County shall receive a salary in an amount to be set by ordinance of the Sussex County Council.

(23 Del. Laws, c. 60, § 7; Code 1915, § 1438; 40 Del. Laws, c. 139, § 1; Code 1935, § 1597; 44 Del. Laws, c. 98, § 1; 45 Del. Laws, c. 138, § 1; 46 Del. Laws, c. 298, § 1; 9 Del. C. 1953, § 9602; 49 Del. Laws, c. 290, § 6; 49 Del. Laws, c. 380; 50 Del. Laws, c. 478, § 1; 50 Del. Laws, c. 494, § 1; 52 Del. Laws, c. 52, § 2; 52 Del. Laws, c. 174, § 7; 53 Del. Laws, c. 222, § 4; 54 Del. Laws, c. 23, § 5; 54 Del. Laws, c. 215, § 5; 57 Del. Laws, c. 692, § 6; 58 Del. Laws, c. 7; 59 Del. Laws, c. 514, § 3; 61 Del. Laws, c. 506, § 5; 65 Del. Laws, c. 163, § 7; 65 Del. Laws, c. 216, § 2; 67 Del. Laws, c. 255, § 5; 68 Del. Laws, c. 234, § 2.)

### § 9603. Deputies and employees.

The recorders in Kent and Sussex Counties may employ such chief deputy, deputies and clerks as are authorized by the governments of the counties, at compensations fixed by such governments. In Kent County, minimum qualifications may be established by the county government for each position, and said minimum qualifications and compensation and any subsequent adjustments thereto shall have the concurrence of the recorder.

(23 Del. Laws, c. 60, § 8; 24 Del. Laws, c. 86, § 2; 27 Del. Laws, c. 73, § 1; 27 Del. Laws, c. 83, § 1; Code 1915, § 1439; 29 Del. Laws, c. 91, § 1; 29 Del. Laws, c. 92, § 1; 30 Del. Laws, c. 91, § 1; 31 Del. Laws, c. 17, § 1; 32 Del. Laws, c. 67, § 1; 35 Del. Laws, c. 79, § 1; 40 Del. Laws, c. 139, § 2; Code 1935, §§ 1191, 1598; 43 Del. Laws, c. 120, § 1; 44 Del. Laws, c. 100, §§ 1, 2; 44 Del. Laws, c. 101, § 1; 45 Del. Laws, c. 109, §§ 1, 2; 46 Del. Laws, c. 298, §§ 1, 2; 47 Del. Laws, c. 192; 48 Del. Laws, c. 111, § 1; 9 Del. C. 1953, § 9603; 55 Del. Laws, c. 85, § 31A; 74 Del. Laws, c. 45, § 4.)

### § 9604. Inventory of books and records [Repealed].

Repealed by 72 Del. Laws, c. 28, § 1, effective May 12, 1999.

### § 9605. Recordation of instruments [For application of this section, see 85 Del. Laws, c. 137, § 12].

(a) Each recorder shall record, within a reasonable time, deeds, indentures, letters of attorney relating to land, mortgages, releases of lien of mortgages, leases, releases, assignments, conditional sales and leases of railroad and railway equipment and rolling stock, oaths of office, plots and descriptions, appointments of deputy registers of wills, certificates of commissioners and agreements of owners bounding and marking lands, petitions and orders for sheriffs' deeds and all instruments authorized or directed by law to be recorded or lodged by the recorder of deeds. The recorder shall forthwith make a proper note of the same in the indices.

(b) (1) A recorder may not knowingly record or receive for filing any contract, mortgage, lease, deed or conveyance, or any other indenture or agreement affecting real property that contains any promise, covenant, or restriction that limits, restrains, prohibits, or otherwise provides against the sale, gift, transfer, assignment, conveyance, ownership, lease, rental, use, or occupancy of real property to or by any person because of race, color, creed, religion, sex, sexual orientation, gender identity, disability, age, marital status, familial status, source of income, national origin, ancestry, housing status, or any other basis protected under Chapter 46 of Title 6. For purposes of this paragraph (b)(1):

a. "Housing status" means as defined in § 4602 of Title 6.

b. "Protective hairstyle" includes braids, locks, and twists.

c. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

(2) Paragraph (b)(1) of this section does not prohibit a recorder from recording or receiving for filing any contract, mortgage, lease, deed or conveyance, or any other indenture or agreement affecting real property that contains a provision that is permitted by the exceptions to the Delaware Fair Housing Act under §§ 4603A and 4607 of Title 6.

(c) For the purpose of this chapter and this section, any reference in any section of this chapter to the recordation of any document or instrument in books or volumes shall not prohibit the recorder from causing the instrument to be preserved for examination or reproduction by means of any archival filming or storage process approved by the Delaware State Archivist and Records Administrator. The recorder shall be authorized to determine which records shall be available in book form or only in photographic or electronic form.

(d) No recorder shall accept for recording any deed or other instrument purporting to convey title to real estate unless and until the Recorder has first received an affidavit of residence and gain in the form in subsection (e) of this section; provided however, that the Recorder may accept for recording any such deed or other such instrument purporting to convey title to real estate without first receiving such an affidavit of residence and gain if the transaction or instrument is one of those transactions or instruments exempted from the definition of "document" for the purposes of imposition of the realty transfer tax in § 5401(1) of Title 30. The Recorder of New Castle County may delegate this duty to another county department with the consent of the County Executive.

(e) The form to be used in making such affidavit of residence and gain shall be separately made available by each recorder and such form shall require information and authorization from, by or on behalf of the seller, to the extent such information is known to the person making the affidavit; provided however, that if the seller is a Delaware resident or a corporation domiciled in Delaware, it shall be necessary only to so state on the affidavit of residence and gain or any other affidavit provided by the recorder for this purpose:

(1) An adequate description of the seller, including name, residence, address, taxpayer identification number and principal place of business as appropriate.

(2) Whether or not the seller is a nonresident individual, nonresident estate, nonresident trust or nonresident partner, as such terms are defined in Chapter 11 of Title 30, or, if the seller is a corporation, whether or not it is a foreign corporation.

(3) The actual consideration received by the seller and whether or not the seller had a gain on the sale of real estate to which title is purporting to be conveyed.

(4) Within such affidavit the seller shall also authorize the Division of Revenue or such other appropriate state agency as may be designated to obtain any appropriate or necessary federal income tax forms, including their attached schedules or other attachments, and any other related papers filed by such seller which relate solely to the said real estate to which title is purported to be conveyed by the deed or instrument being recorded.

(f) The recorder shall not accept for recordation any deed or other instrument affecting real property unless the deed or other instrument contains thereon in a conspicuous place the county tax assessment parcel identification number of the parcel or parcels affected. In all cases where the affected parcel was just created by subdivision, the number of the parcel which was subdivided shall be identified and the number of the newly created parcel or parcels shall be listed, if available. In cases where the affected parcel was just created by the combining of separate parcels, the number of the parcels that were combined shall be identified. The number or numbers of the newly created parcel or parcels shall be listed, if available.

(g) The recorder shall be authorized to issue regulations concerning the format and size of instruments to be accepted for recordation including, but not limited to the map scale, type size, paper size, margins and requirements for open areas within an instrument to assure that the document is in a form proper for micrographic or electronic reproduction. The recorder may require that, for any instrument presented that does not comply with the regulations or that is not otherwise in a form acceptable for micrographic reproduction, a typed statement be attached and made a part of the document stating the kind of instrument, the date, the parties to the instrument, a description of the property and any other pertinent data necessary to allow the instrument to be microfilmed.

(h) The recorder of deeds shall not accept for recordation any deed or other instrument affecting real property unless the deed or other instrument contains the words "prepared by" followed by the name and address of the person who drafted or prepared the deed or other instrument for recording. The information required by this subsection shall appear on the first page of the instrument to be recorded.

(i) The Recorder of Deeds for Kent County shall not accept for recording any deed or other instrument purporting to convey title to real estate until the recorder has received payment of all state and municipal realty transfer tax due on the transfer, with the exception of the City of Dover realty transfer tax; provided however, that any municipality which has imposed a realty transfer tax may continue to collect such tax upon written notification to the recorder of such election. The Recorder of Deeds for Kent County shall accept any Class C recordings for manufactured homes, but only if the Kent County government, by ordinance, first authorizes and defines Class C grading within Kent County.

(j) The county recorders of deeds shall not record military service discharge documents. The county recorders of deeds shall transfer all recorded military service discharge documents to the Department of Veterans Affairs, the State's Repository pursuant to § 8804 of Title 29. The Department of Veterans Affairs shall maintain all certificates of release or discharge from active military service or similar discharge documents as defined.

(Code 1915, § 1374; 31 Del. Laws, c. 16, § 1; Code 1935, § 1546; 45 Del. Laws, c. 132, §§ 1, 3; 45 Del. Laws, c. 258, § 1; 46 Del. Laws, c. 43, §§ 1, 3; 47 Del. Laws, c. 29, §§ 1, 3; 9 Del. C. 1953, § 9605; 49 Del. Laws, c. 246, § 1; 50 Del. Laws, c. 509, § 1; 56 Del. Laws, c. 99, §§ 1, 2; 57 Del. Laws, c. 82, §§ 1, 2; 59 Del. Laws, c. 84, §§ 1, 2; 60 Del. Laws, c. 234, § 1; 60 Del. Laws, c. 277, § 1; 67 Del. Laws, c. 178, § 1; 67 Del. Laws, c. 179, § 1; 67 Del. Laws, c. 261, § 16; 67 Del. Laws, c. 319, § 1; 69 Del. Laws, c. 145, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 587, § 38; 72 Del. Laws, c. 382, § 1; 75 Del. Laws, c. 235, §§ 1, 2; 77 Del. Laws, c. 120, § 1; 81 Del. Laws, c. 409, § 2; 83 Del. Laws, c. 13, § 5; 84 Del. Laws, c. 428, § 2; 85 Del. Laws, c. 137, § 5; 85 Del. Laws, c. 144, § 6.)

## § 9606. Recordation of instruments; duties.

When a document is lodged for recording in the recorder's office and the fees paid, the recorder shall note upon it the day, month and year, and in case of any mortgage, the hour and minute of its being so lodged, and shall record the same, with all certificates, annexations,

and endorsements, without delay. The recording shall be dated as of the time it was lodged in the office. The recorder shall certify the recording, under hand and official seal, upon each deed or writing recorded, with proper reference to the book and page. The recorder shall also, if required, give a certificate of the lodging of any paper in his or her office for record.

(Code 1852, § 642; 16 Del. Laws, c. 130; Code 1915, §§ 1380, 1383; Code 1935, §§ 1551, 1555; 9 Del. C. 1953, § 9606; 70 Del. Laws, c. 186, § 1.)

## § 9607. Collection of recording fees; certain taxes; Housing Development Fund surcharge; Delaware Cultural Access Fund fee.

(a) The recorder may require the payment of fees for recording any instrument as soon as the recorder shall have noted the date of reception on such instrument.

(b) The recorder of each county shall collect, for each document or paper recorded or filed, a surcharge of $5.00 for the support of the Housing Development Fund and an additional $25 fee for the support of the Delaware Cultural Access Fund. The surcharge of $5.00 and the additional $25 fee is included in the assessment fee collected by each county in accordance with § 103(c)(6) of Title 8. Any instrument for which an assessment fee is charged shall be considered 1 document for purposes of determining the surcharge of $5.00 and the $25 fee. If a county, by ordinance, waives county recording fees for common interest communities or civic associations, the recorder for that county shall not collect the surcharge of $5.00 or fee of $25 under this subsection for any document or paper recorded or filed by a common interest community or civic association.

(c) Not later than the twentieth day of each month, each recorder of deeds shall remit to the State Treasurer 95% of the amount of the surcharge collected under subsection (b) of this section. The State Treasurer shall deposit such funds into the Housing Development Fund established under subchapter V of Chapter 40 of Title 31. Each recorder of deeds shall retain 5% of the amount of the surcharge as compensation for the expenses of the recorder of deeds in collecting and remitting the surcharge provided in subsection (b) of this section.

(d) Not later than the twentieth day of each month, each recorder of deeds shall remit to the State Treasurer 99% of the amount of the Delaware Cultural Access Fund fees collected under subsection (b) of this section. The State Treasurer shall deposit such funds into the special fund established under subchapter I of Chapter 5 of Title 29. The 1% of the amount of the fees which are retained by the recorders of deeds shall be used by the respective county governments to cover costs associated with collection and remitting of the fee, and as funding to support records management and preservation activities within those county governments.

(e) (1) Pursuant to §§ 1126, 1606 and 1909 of Title 30, before the recorder shall record a deed conveying title in Delaware real estate by a nonresident individual, a nonresident pass-through entity, or a nonresident corporation, as those terms are defined the relevant sections of Title 30, the recorder shall receive the tax return or report, and collect the estimated income tax reported due, if any. The estimated taxes collected under this subsection shall be accounted for and remitted with the tax return or report to the Secretary of Finance no later than the twentieth day of the month following the recording of the deed.

(2) The tax returns or reports and the amounts of tax collected pursuant to § 1126, § 1606 or § 1909 of Title 30, and the recorders and their employees or agents, shall be subject to the secrecy provisions and penalties of § 368 of Title 30.

(11 Del. Laws, c. 96; 16 Del. Laws, c. 130; Code 1915, §§ 1382, 1383, 4891, 4892; Code 1935, §§ 1554, 1555, 5379, 5380; 9 Del. C. 1953, § 9607; 65 Del. Laws, c. 511, § 1; 67 Del. Laws, c. 257, §§ 2-4; 68 Del. Laws, c. 119, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 587, § 39; 74 Del. Laws, c. 9, § 10; 77 Del. Laws, c. 75, § 1; 77 Del. Laws, c. 291, § 5; 80 Del. Laws, c. 381, § 1.)

## § 9608. Assignment record.

Each recorder shall keep an assignment record and index thereof. There shall be recorded in such record the assignment of all mortgages and other instruments which are by law recorded in his or her office.

(12 Del. Laws, c. 110; Code 1915, § 1375; Code 1935, § 1547; 9 Del. C. 1953, § 9608; 70 Del. Laws, c. 186, § 1.)

## § 9609. Separate books for maps and plots.

Each recorder shall record all maps and plots of real estate, presented to his or her office for recording, in separate volumes. The recorder shall make and preserve, in proper index books, an accurate index of all such maps and plots.

(43 Del. Laws, c. 117, § 1; 9 Del. C. 1953, § 9609; 70 Del. Laws, c. 186, § 1.)

## § 9610. Recording of official obligations; notation of cancellation.

(a) Each recorder shall record the official obligations of constables, registers of wills, Prothonotaries, clerks of the peace, Registers in Chancery, and preserve the original in his or her office, those for each year, in a separate bundle, with the label of the year. Each recorder shall also record the official obligation of the Oyster Revenue Collector. The obligations of the Secretary of State and the Clerk of the Supreme Court shall be filed, recorded, and the original thereof preserved in the Recorder's office of Kent County.

(b) The recorder shall keep a separate index book in which shall be indexed the name of each official whose obligation is recorded. Upon cancellation of any official obligation in accordance with § 9116 of this title or § 122 of Title 10, the recorder shall write the word "cancelled" and sign his or her name as recorder opposite or alongside of the name of the official whose bond has been so cancelled.

(Code 1852, § 458; 11 Del. Laws, c. 17; Code 1915, §§ 385, 1381; Code 1935, §§ 1552, 1553; 46 Del. Laws, c. 54, § 1; 9 Del. C. 1953, § 9610; 70 Del. Laws, c. 186, § 1.)

## § 9611. Recordation of instruments containing certificate of notarial act.

(a) Any document presented to the recorder for recording which contains a certificate of a notarial act as defined by §§ 4316(5) and 4328 of Title 29 (existing or as amended), shall, in addition to other matters which may be required by law, identify the name and title of the notarial officer who executed the certificate in a legible manner which is suitable for micrographic or electronic reproduction.

(b) The use of a typewriter, printer or rubber stamp which when applied to the instrument produces the printed information required by subsection (a) of this section shall also be authorized.

(c) The recorder may refuse to record any document that contains a certificate of a notarial act which does not comply with subsection (a) of this section unless the person recording the instrument pays a penalty equal to the authorized recording fee for said document.

(d) The recording of any instrument which does not comply with subsection (a) of this section shall not affect its validity or admissibility as a public record.

(14 Del. Laws, c. 383, § 2; Code 1915, § 1379; Code 1935, § 1550; 9 Del. C. 1953, § 9611; 67 Del. Laws, c. 320, § 1; 83 Del. Laws, c. 425, § 11; 84 Del. Laws, c. 233, § 10.)

## § 9612. Recorded instrument or certified copy thereof as evidence.

The record of any instrument of writing, authorized by law to be recorded in the recorder's office, or a duly certified copy of such record, or the record of forms required by § 9605(b) of this title, shall be evidence.

(Code 1852, § 646; Code 1915, § 1388; Code 1935, § 1559; 45 Del. Laws, c. 132, § 2; 46 Del. Laws, c. 43, § 2; 47 Del. Laws, c. 29, § 2; 9 Del. C. 1953, § 9612.)

## § 9613. Certificate of scire facias [Repealed].

Repealed by 72 Del. Laws, c. 26, § 1, effective May 12, 1999.

## § 9614. Report of real estate transfers to boards of assessment and taxing authorities of incorporated towns and cities; to Wilmington Department of Surveys.

(a) Each recorder shall furnish to the board of assessment or department of finance a proper description of each parcel of real estate which is conveyed by deed and, in addition, shall furnish to the taxing authorities of incorporated towns and cities, copies of the descriptions of such parcels of real estate conveyed which are located within the boundaries of such towns and cities. The recorder shall also furnish to the board of assessment or department of finance and to the taxing authorities of incorporated towns and cities, in proper cases, the date of conveyance, the names of the grantor and grantee and, if known to the recorder, the address of the grantee. The information shall be furnished within a reasonable time after the deed is lodged with the recorder. Such information need not be supplied to the board of assessment or department of finance if it is noted on the deed by the board of assessment or department of finance that the purchaser has supplied the required information to the board of assessment or department of finance.

(b) When a deed conveys real estate within the City of Wilmington, the Recorder for New Castle County shall furnish certificates thereof to the Department of Surveys of that City.

(c) In addition to all other information provided by each recorder to the Division of Revenue or such other state agency or department which is assigned the responsibility of the collection of income taxes by the State, each recorder shall also, within 30 days of the date of recording any deed or other instrument purporting to convey title to real estate as to which an affidavit of residence and gain was filed pursuant to § 9605(h) of this title, forward to the Division of Revenue or such other state department or agency a copy of the said affidavit of residence and gain filed as part of that transaction.

(19 Del. Laws, c. 26, § 27; 19 Del. Laws, c. 562, § 11; 20 Del. Laws, c. 389, § 1; Code 1915, §§ 1126A, 1178, 1395; 28 Del. Laws, c. 82, § 28; 29 Del. Laws, c. 72, § 20; 30 Del. Laws, c. 77, § 19; 30 Del. Laws, c. 78, § 7; 31 Del. Laws, c. 14, § 24; 33 Del. Laws, c. 79, § 1; 33 Del. Laws, c. 84, § 23; Code 1935, §§ 1272, 1309, 1328, 1371, 1420, 1453, 1562; 46 Del. Laws, c. 299, § 1; 9 Del. C. 1953, § 9614; 49 Del. Laws, c. 242; 55 Del. Laws, c. 85, § 31B; 60 Del. Laws, c. 234, § 2; 60 Del. Laws, c. 277, § 2; 70 Del. Laws, c. 186, § 1.)

## § 9615. Delivery of records to Delaware Public Archives; photocopies; evidence.

(a) The recorder, in each of the counties, upon the advice and approval of the Resident Judge of the Superior Court of the county, may deliver to the Delaware Public Archives, with the consent of the State Archivist and Records Administrator, for preservation in the public archives of the State, at Dover, any volume of land records in the recorder's official custody, the age and conditions of which render its continued use by the public inadvisable, and the recorder shall take a receipt for the same which receipt shall be recorded in the office from which such volume or record is taken.

(b) Within a reasonable time after any such volume or record has been delivered to the Delaware Public Archives, the State Archivist and Records Administrator shall make a photocopy of its contents and shall certify that such contents are complete and correct, and such certificate shall be included in such photocopy. Such photocopy shall be delivered to the recorder from which the original volume was received. The recorder may issue certified copies of any records photocopied under the provisions of this section. Any such certified copy shall be admissible as evidence in any court of justice in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volume.

(c) The Recorder of Deeds, in and for New Castle County, upon approval of the Resident Judge of the Superior Court, in and for New Castle County, may photocopy or microfilm any volume of land records in his or her official custody, the age and condition of which render its continued use by the public inadvisable. The Recorder of Deeds shall certify that the contents of such copies are complete and correct. When so copied and certified, the Recorder of Deeds may issue certified copies of any instrument contained in the copy of the original volume, and any such certified copy shall be admissible in evidence in any court of justice in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volume. Any original volumes of land records so copied and certified by the Recorder of Deeds may be delivered to the Delaware Public Archives with the consent of the State Archivist and Records Administrator for preservation in the public archives of the State. The Recorder of Deeds shall certify to the State Archivist and Records Administrator that the copying of the original volume or volumes was done under the Recorder of Deeds' authorization and supervision, that it meets standards for methods and materials established by the Delaware Public Archives under the provisions of § 517 of Title 29, and he or she shall take receipt for the same and the receipt shall be preserved in the office of Recorder of Deeds, in and for New Castle County.

(d) The Recorder of Deeds, in and for Sussex County, upon advice and approval of the Resident Judge of the Superior Court in and for Sussex County, may photocopy or microfilm any volume of land records in his or her official custody, the age and condition of which render its continued use by the public inadvisable. Such copy or microfilm shall be indexed and stored as provided for in § 9605(e) of this title. The Recorder of Deeds shall certify that the contents of such copies are complete and correct. When so copied and certified, the Recorder of Deeds may issue certified copies of any instrument contained in the copy of the original volume, and any such certified copy shall be admissible in evidence in any court of justice in the same manner and entitled to the same weight and have the same effect as certified copies made from the original volumes. Any original volume of land records so copied and certified by the Recorder of Deeds may be delivered to the Delaware Public Archives with the consent of the State Archivist and Records Administrator for preservation in the public archives of the State. The Recorder of Deeds shall certify to the State Archivist and Records Administrator that the copying of the original volume or volumes was done under his or her authorization and supervision, that it meets standards for methods and materials established by the Delaware Public Archives under the provisions of § 517 of Title 29, and the Recorder of Deeds shall take a receipt for the same and the receipt shall be preserved in the office of Recorder of Deeds.

(37 Del. Laws, c. 110, § 1; Code 1935, § 1563; 9 Del. C. 1953, § 9615; 54 Del. Laws, c. 205; 56 Del. Laws, c. 98; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 91, §§ 1-5; 76 Del. Laws, c. 213, §§ 9-11.)

## § 9616. Neglect of duty; penalty.

For the neglect of any duty prescribed in this chapter, in cases where no other penalty is prescribed, the recorder shall be fined not more than $50.

(Code 1852, § 645; Code 1915, § 1387; Code 1935, § 1558; 9 Del. C. 1953, § 9616.)

## § 9617. Fees in New Castle and Sussex Counties.

The fees of the Recorders of Deeds in New Castle and Sussex Counties shall be established by ordinance.

(24 Del. Laws, c. 247, § 3; Code 1915, § 4862; Code 1935, § 5357; 41 Del. Laws, c. 217; 44 Del. Laws, c. 182, § 1; 46 Del. Laws, c. 118, § 1; 9 Del. C. 1953, § 9617; 51 Del. Laws, c. 185; 52 Del. Laws, c. 162, § 1; 56 Del. Laws, c. 126, § 1; 56 Del. Laws, c. 237, §§ 1, 2; 57 Del. Laws, c. 768, § 2; 63 Del. Laws, c. 132, § 1.)

## § 9618. Fees in Sussex County [Repealed].

Repealed by 63 Del. Laws, c. 132, § 2, effective July 9, 1981.

## § 9619. Fees in Kent County.

The fees of the Recorder of Deeds in Kent County shall be established by ordinance.

(9 Del. C. 1953, § 9620; 56 Del. Laws, c. 126, § 2; 60 Del. Laws, c. 221, § 1; 64 Del. Laws, c. 89, § 1.)

## § 9620. Neglect or refusal to pay fees; penalty.

Whoever neglects or refuses to pay the fees provided for in §§ 9617 and 9619 of this title, for any service performed, within 10 days after written demand from the recorder to whom such fees are due, shall be fined $10 besides costs of suit.

(24 Del. Laws, c. 247, § 4; 24 Del. Laws, c. 246, § 6; Code 1915, § 4890; Code 1935, § 5378; 9 Del. C. 1953, § 9620.)

## § 9621. Indexing of records in the office of the Recorder of Sussex County.

(a) The Recorder of Sussex County shall from time to time, on and after January 10, 1968, under the supervision and subject to the approval of the Resident Judge of the Superior Court residing in Sussex County, change and revise all systems of indexing of, and consolidate all indices to, all records heretofore or hereafter kept, filed or maintained in the Recorder's office, and index and reindex the same, according to some modern and accurate system which may be authorized and approved by such Resident Judge, and continue such system of indexing with regard to the ongoing, current volume of work resulting from the usual course of business of the Recorder's office until such further time as any such system may thereafter be changed or revised under the supervision and subject to the approval of the Resident Judge.

(b) For the purposes of subsection (a) of this section, the Recorder of Sussex County may contract for the work of compiling all indices, and for the installation of any such modern system of indexing, and the verification of said indices when made, all under the supervision, direction, and approval of the Resident Judge.

(c) For the purposes of subsection (a) of this section, the Recorder of Sussex County may purchase all books, racks, shelves, supplies and other equipment necessary for such purposes and from time to time thereafter purchase the necessary books, racks, shelves, supplies and other equipment to provide for the continuation of any such indexing of records which result from the ongoing, current volume of work resulting from the usual course of business of the Recorder's office.

(d) The total cost of indexing of all such records, as aforesaid, and the cost of the necessary books, racks, shelves, supplies, and other equipment therefor, as well as all additions thereto as may be necessary by reason of the ongoing, current volume of work resulting from the usual course of business of the Recorder's office, shall be paid by the government of Sussex County.

(e) Whenever the several, separate indices of any of the records kept, filed or maintained in the office of the Recorder of Sussex County shall have been consolidated into a single system of indexing in pursuance of the authority vested in the Recorder of Sussex County, under the supervision and subject to the approval of the Resident Judge, the Recorder of Sussex County may discontinue the keeping, compiling and maintaining of the several separate indices thereto, and all acts or parts of acts, requiring the keeping, compiling, and maintaining of separate indices thereto shall thereupon be repealed.

(9 Del. C. 1953, § 9621; 56 Del. Laws, c. 246; 76 Del. Laws, c. 213, §§ 12-16; 70 Del. Laws, c. 186, § 1.)

## § 9622. Department of finance construed.

Any reference to "department of finance" shall be deemed to mean and include the Department of Finance in Sussex County and the Office of Finance in New Castle County.

(9 Del. C. 1953, § 9622; 57 Del. Laws, c. 762, § 30; 71 Del. Laws, c. 401, § 129.)

## § 9623. Required statement in deed conveying certain property in unincorporated suburban community.

In the event any real property in an unincorporated suburban community with road frontage on a private road or street, constructed or reconstructed pursuant to § 131 of Title 17, which road or street is not to be maintained by the State, is conveyed subsequent to such construction or reconstruction and the deed is presented for recordation, the recorder of the county in which the land is located shall not record such deed unless the deed shall contain a statement that such private street or road is not maintained by the State.

(63 Del. Laws, c. 130, § 3; 64 Del. Laws, c. 312, § 2.)

## § 9624. Integration of documents from the office of the Secretary of State [Repealed].

(70 Del. Laws, c. 587, § 40; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 186, § 1; repealed by 83 Del. Laws, c. 377, § 18, effective Aug. 1, 2022.)

## § 9625. Fee, charges and rules for public access [Repealed].

(70 Del. Laws, c. 587, § 41; repealed by 83 Del. Laws, c. 377, § 19, effective Aug. 1, 2022.)

## § 9626. Transfer of assessment fees.

The New Castle County Recorder of Deeds shall monthly cause to be remitted $^1/_2$ of all fees which are by law payable to the New Castle County Recorder of Deeds pursuant to § 103(c)(6) of Title 8 to the treasury of the City of Wilmington.

(75 Del. Laws, c. 218, § 1.)

## § 9627. Redaction of information.

(a) The recorder for each county shall be authorized to establish administrative procedures to allow a party who has previously been a signatory on an instrument for recordation to request that the recorder redact personal identifying information. Personal identifying information shall include: bank and credit card account numbers; the first 5 digits of a social security number; official state- or government-issued driver's license or identification numbers; alien registration numbers; government passport numbers and employer or taxpayer identification numbers. A person requesting redaction must provide information sufficient to enable the recorder to identify the document to be redacted and verify that the requesting party or parties are the same person or persons named on the previously recorded instrument.

(b) Personal identifying information shall not include information essential to the purposes of public recordation, such as party names, property information including property description, parcel number, parcel address or mailing address. A recorder, in consultation with the county attorney in each respective county, shall be authorized to determine whether information is essential to the purposes of public recordation and thereby not subject to redaction.

(c) The Recorder of Deeds for New Castle County, Kent County and Sussex County shall have no liability for failure to redact personal identifying information.

(77 Del. Laws, c. 142, § 1.)

## § 9628. Redaction of unlawful restrictive covenant.

(a) An owner of real property that is subject to an instrument that contains a provision that is in violation of § 9605(b) of this title, including a governing document of a common interest community, may request that the recorder for the county in which the instrument is recorded redact and strike the provision from the instrument.

(b) (1) Before granting a request made under subsection (a) of this section, a recorder must submit the request and the instrument at issue to the county attorney.

a. The county attorney shall determine whether the instrument contains an unlawful restrictive covenant in violation of § 9605(b) of this title.

b. The county attorney shall inform the recorder of the county attorney's decision within 90 days of receipt of the request and the instrument from the recorder, unless extraordinary circumstances apply, then the county attorney has 60 additional days to inform the recorder of the county attorney's decision.

c. The recorder shall deny a request made under subsection (a) of this section if the county attorney determines that the instrument does not contain an unlawful restrictive covenant in violation of § 9605(b) of this title.

(2) The county attorney may compile a list of phrases identified as unlawful restrictive covenants in violation of § 9605(b) of this title. Notwithstanding paragraph (b)(1) of this section, a recorder may grant a request made under subsection (a) of this section without further review by the county attorney if the request is in compliance with the list compiled by the county attorney.

(c) A recorder may prescribe the form and required contents of a request under subsection (a) of this section, but the request must include at least the following information:

(1) The legal description of the property subject to the provision in violation of § 9605(b) of this title.

(2) The type of instrument that is subject to the provision in violation of § 9605(b) of this title and the instrument's book and page number or instrument number.

(3) A clear description of the provision claimed to be in violation of § 9605(b) of this title.

(d) (1) This section applies to an owner of real property that is part of a common interest community under Chapter 81 of Title 25.

(2) Notwithstanding any other law or contractual provision to the contrary, an owner of real property that is part of a common interest community under Chapter 81 of Title 25 may make a request under subsection (a) of this section that the recorder for the county in which the instrument is recorded redact and strike a provision that is in violation of § 9605(b) of this title from all instruments affecting real property that is part of the common interest community.

(e) (1) Upon request for inspection, copying, or any other public disclosure of an instrument that has had an unlawful restrictive covenant in violation of § 9605(b) of this title redacted from it under this section, a recorder shall make available only the redacted version of that instrument.

(2) A recorder may disclose the unredacted version of an instrument that has had an unlawful restrictive covenant in violation of § 9605(b) of this title redacted from it under this section only in response to a subpoena or order of a court of competent jurisdiction.

(81 Del. Laws, c. 409, § 1.)