

CITY OF DOVER PROPOSED ORDINANCE #2020-04

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN**  
2 **COUNCIL MET:**

3 That Chapter 22 - Buildings and Building Regulations, Article I - In General, Section 22-1 -  
4 Construction and Property Maintenance Code Board of Appeals, be amended by inserting the text  
5 indicated in bold blue and deleting the text indicated in red strikethrough as follows:

6 **CHAPTER 22 - BUILDINGS AND BUILDING REGULATIONS**

7 **ARTICLE I. - IN GENERAL**

8 ~~Sec. 22-1. - Construction and property maintenance code board of appeals:~~

- 9 ~~—(a) Established; composition; appointment. There shall be a committee to be referred to as the~~  
10 ~~"construction and property maintenance code board of appeals," consisting of five~~  
11 ~~members. The council president shall appoint three elected city officials and the mayor~~  
12 ~~shall appoint one city resident generally selected as a representative of homeowners and~~  
13 ~~one representative of the local real estate industry association. Members shall serve~~  
14 ~~one-year terms unless sooner removed. All appointments are subject to confirmation by the~~  
15 ~~city council at its second regular meeting in May. The construction and property~~  
16 ~~maintenance code board of appeals shall elect one of its members as chairperson.~~  
17 ~~—(b) Appeals . Whenever any person is aggrieved by a decision of the building inspector with~~  
18 ~~respect to the provision of this chapter, it is the right of that person to appeal to the~~  
19 ~~construction and property maintenance code board of appeals. Such appeal must be filed,~~  
20 ~~in writing, within 30 days after the determination by the building inspector.~~  
21 ~~—(c) Notice; hearing . Upon receipt of such an appeal, the construction and property~~  
22 ~~maintenance code board of appeals shall set a time and place in not less than ten, nor more~~  
23 ~~than 30 days for the purpose of hearing the appeal. Notice of the time and place of the~~  
24 ~~hearing of the appeal shall be given to all parties, at which time they may appear and be~~  
25 ~~heard. The determination by the construction and property maintenance code board of~~  
26 ~~appeals shall be final in all cases.~~

27 **Sec. 22-1. - Adopted.**

- 28 **(a) Appendix B - Board of Appeals of the 2018 International Building Code (IBC) as**  
29 **published by the International Code Council is hereby adopted to establish the Board**  
30 **of Appeals and provide the procedures by which the Board of Appeals should**  
31 **conduct its business, except as follows:**  
32  
33 **(b) For the purpose of this section:**  
34 **(i) Building official as used in B101.1 of the IBC shall mean the Building Inspector**  
35 **as used in Chapter 22 of the City Code.**  
36 **(ii) The Board of Appeals shall be appointed by the Council President and confirmed**  
37 **by the Council based on the recommendations of the Building Inspector, not the chief**  
38 **appointing authority set forth in B101.2 of the 2018 IBC.**  
39

40 (iii) The Building Inspector shall designate a qualified clerk to serve as secretary to  
41 the board, not the chief administrative officer as set forth in B101.2.6 of the IBC.

42 The text of Appendix B is provided below for reference only:

43 SECTION B101 - GENERAL

44 [A] B101.1 Application. Applications for appeal shall be obtained from the building official.  
45 Applications shall be filed within 20 days after notice has been served.

46 [A] B101.2 Membership of board. The board of appeals shall consist of persons appointed by the  
47 chief appointing authority as follows:

- 48 1. One for 5 years; one for 4 years; one for 3 years; one for 2 years; and one for 1 year.
- 49 2. Thereafter, each new member shall serve for 5 years or until a successor has been  
50 appointed.

51 The *building official* shall be an ex officio member of said board but shall have no vote on any  
52 matter before the board.

53 [A] B101.2.1 Alternate members. The chief appointing authority shall appoint two alternate  
54 members who shall be called by the board chairperson to hear appeals during the absence or  
55 disqualification of a member. Alternate members shall possess the qualifications required for board  
56 membership and shall be appointed for 5 years, or until a successor has been appointed.

57 [A] B101.2.2 Qualifications. The board of appeals shall consist of five individuals, one from each  
58 of the following professions or disciplines:

- 59 1. Registered design professional with architectural experience or a builder or superintendent  
60 of building construction with not fewer than 10 years of experience, 5 of which shall have  
61 been in responsible charge of work.
- 62 2. Registered design professional with structural engineering experience.
- 63 3. Registered design professional with mechanical and plumbing engineering experience or  
64 a mechanical contractor with not fewer than 10 years of experience, 5 of which shall have  
65 been in responsible charge of work.
- 66 4. Registered design professional with electrical engineering experience or an electrical  
67 contractor with not fewer than 10 years of experience, 5 of which shall have been in  
68 responsible charge of work.
- 69 5. Registered design professional with fire protection engineering experience or a fire  
70 protection contractor with not fewer than 10 years of experience, 5 of which shall have  
71 been in responsible charge of work.

72 [A] B101.2.3 Rules and procedures. The board is authorized to establish policies and procedures  
73 necessary to carry out its duties.

74 [A] B101.2.4 Chairperson. The board shall annually select one of its members to serve as  
75 chairperson.

76 [A] **B101.2.5 Disqualification of member.** A member shall not hear an appeal in which that  
77 member has a personal, professional or financial interest.

78 [A] **B101.2.6 Secretary.** The **chief administrative officer** shall designate a qualified clerk to serve  
79 as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of  
80 the chief administrative officer.

81 [A] **B101.2.7 Compensation of members.** Compensation of members shall be determined by law.

82 [A] **B101.3 Notice of meeting.** The board shall meet upon notice from the chairperson, within 10  
83 days of the filing of an appeal or at stated periodic meetings.

84 [A] **B101.3.1 Open hearing.** All hearings before the board shall be open to the public. The  
85 appellant, the appellant's representative, the building official and any person whose interests are  
86 affected shall be given an opportunity to be heard.

87 [A] **B101.3.2 Procedure.** The board shall adopt and make available to the public through the  
88 secretary procedures under which a hearing will be conducted. The procedures shall not require  
89 compliance with strict rules of evidence, but shall mandate that only relevant information be  
90 received.

91 [A] **B101.3.3 Postponed hearing.** When five members are not present to hear an appeal, either the  
92 appellant or the appellant's representative shall have the right to request a postponement of the  
93 hearing.

94 [A] **B101.4 Board decision.** The board shall modify or reverse the decision of the building official  
95 by a concurring vote of two-thirds of its members.

96 [A] **B101.4.1 Resolution.** The decision of the board shall be by resolution. Certified copies shall be  
97 furnished to the appellant and to the building official.

98 [A] **B101.4.2 Administration.** The building official shall take immediate action in accordance with  
99 the decision of the board.

100 **BE IT FURTHER ORDAINED:**

101 That Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Sec. 22-61. -  
102 Adopted, Sections 113 Board of Appeals and R112 Board of Appeals be amended by inserting the  
103 text indicated in bold blue and deleting the text indicated in red strikeout as follows:

104 SECTION 113 BOARD OF APPEALS. See Chapter 22—Buildings and Building Regulations,  
105 Article I—In General, Sec. 22-1 ~~Construction and property maintenance code board of appeals~~  
106 **- Adopted, (a) Appendix B - Board of Appeals of the 2018 International Building Code as**  
107 **published by the International Code Council.**

108 SECTION R112 BOARD OF APPEALS. See Chapter 22 - Buildings and Building Regulations,  
109 Article I - In General, Sec. 22-1 ~~Construction and property maintenance code board of appeals~~  
110 **- Adopted, (a) Appendix B - Board of Appeals of the 2018 International Building Code as**  
111 **published by the International Code Council.**

112 **BE IT FURTHER ORDAINED:**

113 That Chapter 22 - Buildings and Building Regulations, Article VII - Property Maintenance Code,  
114 Sec. 22-221. - Adopted be amended by inserting the text indicated in bold blue and deleting the text  
115 indicated in red strikeout as follows:

116 **Sec. 22-221. - Adopted.**

117 (a) A certain document, three copies of which are on file in the licensing and permitting office  
118 of the city, being marked and designated as "The International Property Maintenance Code,  
119 2009" as published by the International Code Council, be and is hereby adopted as the  
120 Property Maintenance Code of the City of Dover, in the State of Delaware; for the control  
121 of buildings and structures as herein provided; and each and all of the regulations,  
122 provisions, penalties, conditions and terms of said property maintenance code are hereby  
123 referred to, adopted, and made a part hereof, as if fully set out in this section, with the  
124 following additions, insertions, deletions and changes:

125 Section 101.1 Title. Insert "City of Dover, DE" in place of "[NAME OF JURISDICTION]"

126 SECTION 111 MEANS OF APPEAL See Chapter 22 - Buildings and Building Regulations,  
127 Article I - In General, Sec. 22-1 ~~Construction and property maintenance code board of~~  
128 ~~appeals~~ **Sec. 22-1. - Adopted, (a) Appendix B - Board of Appeals of the 2018 International**  
129 **Building Code .**

130 Section 304.14 Insect screens. Insert "March 1st to November 30th" in place of "[date] to [date]".

131 Section 602.3 Heat supply. Insert "September 15th to May 1st" in place of "[date] to [date]".

132 Section 602.4. Occupiable work spaces. Insert "September 15th to May 1st" in place of "[date]  
133 to [date]".

134 (b) It shall be unlawful for any person to violate any of the provisions of the publication  
135 adopted in subsection (a).

136 (Code 1981, § 10-1; Ord. of 7-10-1989; Ord. of 4-25-1994; Ord. of 1-27-1997; Ord. of 3-13-2000;  
137 Ord. of 4-11-2005(7); Ord. of 4-14-2008; Ord. No. 2010-02, 5-10-2010; Ord. No. 2016-19 ,  
138 8-22-2016)

139 **BE IT FURTHER ORDAINED:**

140 That Chapter 22 - Buildings and Building Regulations, Article IX - Lodginghouses, Sec. 22-303. -  
141 Suspension be amended by inserting the text indicated in bold blue and deleting the text indicated  
142 in red strikeout as follows:

143 **Sec. 22-303. - Suspension.**

144 (a) *Grounds; duration.* The building inspector shall suspend the permit issued or withhold the  
145 permit paid for, pursuant to this division, when he determines that the lodginghouse or the  
146 premises surrounding the lodginghouse fails to meet the requirements of this chapter or any

- 147 rule or regulation issued pursuant thereto. Suspension shall last until the violations have  
148 been corrected to the satisfaction of the building inspector, or the suspension shall have  
149 been reversed on appeal.
- 150 (b) *Notice to owner.* Upon suspending any permit under this section or withholding the permit  
151 paid for, the building inspector shall notify the owner of the violations of the applicable  
152 code and shall prescribe a period in which the violation shall be corrected.
- 153 (c) *Appeal.* Any owner or operator of any lodginghouse, whose permit to operate the structure  
154 is suspended by the building inspector pursuant to the procedures of this section, shall have  
155 the right to appeal and notice as provided in ~~section 22-225~~ **Sec. 22-1. - Adopted,**  
156 **(a) Appendix B - Board of Appeals of the 2018 International Building Code.**
- 157 (d) *Effect of appeal.* Upon suspension of a permit, or withholding of a permit ordered by the  
158 building inspector and upon the permittee serving ~~the city clerk with~~ a notice of appeal  
159 pursuant to section 22-~~225~~ **1**, the permit suspension shall be stayed and an existing permit  
160 shall remain in force until the appeal is decided.

161 (Code 1981, § 10-78; Ord. of 4-10-2000)

162 **BE IT FURTHER ORDAINED:**

163 That Chapter 22 - Buildings and Building Regulations, Article X - Rental Dwellings, Sec. 22-352.  
164 - Suspension be amended by inserting the text indicated in bold blue and deleting the text indicated  
165 in red strikeout as follows:

166 **Sec. 22-352. - Suspension.**

- 167 (a) *Grounds; duration.* The building inspector shall suspend the permit issued or withhold the  
168 permit paid for, pursuant to this division, when:
- 169 (1) The building inspector determines that any dwelling or the premises surrounding the  
170 dwelling fails to meet the requirements of this chapter or any rule or regulation issued  
171 pursuant thereto;
- 172 (2) The failure of the property owner or property manager to initiate and prosecute in  
173 good faith eviction proceedings following notification by the city that the terms of  
174 the safe communities lease addendum have been violated; or
- 175 (3) The failure of the property owner or property manager to attend a safe communities  
176 seminar when required by section 22-371(b).
- 177 Suspension shall last until the violations have been corrected to the satisfaction of the  
178 building inspector, or the suspension shall have been reversed.
- 179 (b) *Notice of violations.* Upon suspending any permit under this section or withholding the  
180 permit paid for, the building inspector shall notify the owner of the violations of the  
181 applicable code and shall prescribe a period in which the violation shall be corrected.
- 182 (c) *Appeal.* Any owner or operator of any dwelling, whose permit to operate the structure is  
183 suspended by the building inspector pursuant to the procedures of this section, shall have  
184 the right to appeal and notice as provided in ~~section 22-225~~ **Sec. 22-1. - Adopted,**  
185 **(a) Appendix B - Board of Appeals of the 2018 International Building Code.**
- 186 (d) *Effect of appeal.* Upon suspension of a permit, or withholding of a permit ordered by the  
187 building inspector and upon the permittee ~~servicing the city clerk with filing~~ a notice of  
188 appeal pursuant to ~~section 22-225~~ **Sec. 22-1. - Adopted, (a) Appendix B - Board of**  
189 **Appeals of the 2018 International Building Code**, the permit suspension shall be stayed

190 and an existing permit shall remain in force until the appeal is decided.

191 (Code 1981, § 10-97; Ord. of 4-10-2000; Ord. No. 2009-26, 12-14-2009; Ord. No. 2013-04,  
192 4-8-2013)

193 **BE IT FURTHER ORDAINED:**

194 That Chapter 22 - Buildings and Building Regulations, Article XI - Dangerous Buildings, be  
195 amended by inserting the text indicated in bold blue and deleting the text indicated in red strikethrough  
196 as follows:

197 **Sec. 22-381. - Definitions.**

198 The following words, terms and phrases, when used in this article, shall have the meanings ascribed  
199 to them in this section, except where the context clearly indicates a different meaning:

200 Dangerous buildings means all buildings or structures which have any or all of the following defects  
201 or uses:

- 202 (1) Leaning interior walls. Those of which the interior walls or other vertical structural  
203 members list, lean or buckle to such an extent that a plumb line passing through the center  
204 of gravity falls outside of the middle third of its base.
- 205 (2) Damaged walls, etc. Those which, exclusive of the foundation, show 33 percent or more  
206 of damage or deterioration of the supporting member or members, or 50 percent of damage  
207 or deterioration of the nonsupporting enclosing or outside walls or covering.
- 208 (3) Loads on roofs. Those which have improperly distributed loads upon the floors or roofs or  
209 which the same are overloaded or which have insufficient strength to be reasonably safe  
210 for the purpose used.
- 211 (4) Fire damage, etc. Those which have been damaged by fire, wind or other causes so as to  
212 have become dangerous to life, safety, morals, or the general health and welfare of the  
213 occupants or the people of the city.
- 214 (5) Unfit for habitation. Those which have become or are so dilapidated, decayed, unsafe,  
215 insanitary or so utterly fail to provide the amenities to decent living that they are unfit for  
216 human habitation, or are likely to cause sickness or disease, so as to work injury to the  
217 health, morals, safety or general welfare of those living therein.
- 218 (6) Light, air, sanitation. Those having light, air, and sanitation facilities which are inadequate  
219 to protect the health, morals, safety, or general welfare of human beings who live or may  
220 live therein.
- 221 (7) Fire escapes, etc. Those having inadequate facilities in case of fire or panic, or those having  
222 insufficient stairways, elevators, fire escapes, or other means of communication.
- 223 (8) Loose parts. Those which have parts thereof which are so attached that they may fall and  
224 injure members of the public or property.
- 225 (9) General welfare. Those which, because of their condition or use, are unsafe, insanitary, or  
226 dangerous to the public health, morals, safety or general welfare of the people of this city.
- 227 (10) Code violations. Those existing in violation of any provisions of the building code of this  
228 city, or any provision of the fire prevention code, or other ordinances of this city.
- 229 (11) Drug sales, use, etc. Those which are being used for the unlawful selling, serving, storing,  
230 giving away or manufacturing (which includes the production, preparation, compounding,  
231 conversion, processing, packaging or repackaging) of any drug, which includes all narcotic

- 232 or psychoactive drugs, cannabis, cocaine and all controlled substances as defined in the  
233 Uniform Controlled Substances Act (16 Del. C. § 4701 et seq.).
- 234 (12) Unoccupied buildings. Those which are left unoccupied and unattended for periods of three  
235 months or more so that decay is being accelerated by natural or manmade causes or which  
236 may be attracting trespassers and vagrants, increasing the probability of fire and danger to  
237 human life.
- 238 (13) Incomplete buildings. Those under construction, if the authorized work is substantially  
239 suspended or abandoned for a period of three months or more.

240 (Ord. of 2-28-1955, § 1; Code 1981, § 5-86; Ord. of 10-28-1996; Ord. of 3-13-2000)

241 **Sec. 22-382. - Standards for repair, vacation or demolition.**

242 The following standards shall be followed in substance by the building inspector in ordering repair,  
243 vacation, or demolition of dangerous buildings:

- 244 (1) Repair. If the dangerous building can reasonably be repaired so that it will no longer exist in  
245 violation of the terms of this article, it shall be ordered repaired.
- 246 (2) Vacation. If the dangerous building is in such a condition or is being used as to make it  
247 dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered  
248 to be vacated and closed. Buildings ordered closed shall not be reopened until a certificate of  
249 occupancy is issued.
- 250 (3) Demolition. In any case where a dangerous building is 50 percent damaged, decayed or  
251 deteriorated from its original value or structure, it shall be demolished, and in all cases where a  
252 building cannot be repaired so that it will no longer exist in violation of the terms of this article,  
253 it shall be demolished. In all cases where a dangerous building is a fire hazard as determined by  
254 the fire marshal, or is existing or erected in violation of the terms of this article or any ordinance  
255 of the city or statute of the state, it may be demolished.
- 256 (Ord. of 2-28-1955, § 2; Code 1981, § 5-87; Ord. of 10-28-1996)

257 **Sec. 22-383. - Nuisance declared.**

258 All dangerous buildings within the terms of section 22-381 are hereby declared to be public  
259 nuisances, and shall be repaired, vacated and closed or demolished as hereinbefore and hereafter  
260 provided.

261 (Ord. of 2-28-1955, § 3; Code 1981, § 5-88; Ord. of 10-28-1996)

262 **Sec. 22-384. - Duties of building inspector.**

263 The building inspector shall:

- 264 (1) Inspect public buildings. Inspect or cause to be inspected semiannually all public buildings,  
265 schools, halls, churches, theaters, hotels, tenements, or commercial, manufacturing, or loft  
266 buildings for the purpose of determining whether any conditions exist which render such places  
267 a dangerous building within the terms of section 22-381.
- 268 (2) Complaints. Inspect any building, wall or structure about which complaints are filed by any  
269 person to the effect that a building, wall or structure is or may be existing in violation of this  
270 article.

- 271 (3) Reported violations. Inspect any building, wall or structure reported (as hereinafter provided  
272 for) by the fire or police departments of this city as probably existing in violation of this article.
- 273 (4) Dangerous buildings. Inspect such other buildings as shall from time to time come to his  
274 attention as possibly dangerous buildings within the terms of section 22-381.
- 275 (5) Notice to owner. Notify, in writing, the owner, occupant, lessee, mortgagee, agent and all other  
276 persons having an interest in said building, as shown by the land records of the recorder of  
277 deeds of the county, of any building found by him to be a dangerous building within the  
278 standards set forth in section 22-381, that:
- 279 a. Duties of owner. The owner must vacate and close, or repair, or demolish said building in  
280 accordance with the terms of the notice and this article;
- 281 b. Duties of occupant. The occupant or lessee must vacate and close said building or may  
282 have it repaired in accordance with the notice and remain in possession;
- 283 c. Persons with interest. The mortgagee, agent or other persons having an interest in said  
284 building, as shown by the land records of the recorder of deeds of the county, may, at their  
285 own risk, repair, vacate and close, or demolish said building or have such work or act done;  
286 provided that any person notified under this subsection to repair, vacate and close, or  
287 demolish any building shall be given such reasonable time, not exceeding 30 days, as may  
288 be necessary to do, or have done, the work or act required by the notice provided for  
289 herein;
- 290 d. Appeal. The person or entity receiving notice by the building inspector shall have the right  
291 to appeal his decision ~~directly to the council and have a hearing conducted~~ in  
292 accordance with the provisions of ~~section 22-385 before council, provided that the~~  
293 ~~notice of appeal is filed with the city clerk no later than five days after receiving~~  
294 ~~notice from the building inspector~~ **Chapter 22 - Buildings and Building Regulations,**  
295 **Article I - In General, Section 22-1. - Adopted, (a) Appendix B - Board of Appeals of**  
296 **the 2018 International Building Code .**
- 297 (6) Order to remedy conditions. Set forth in the notice provided for in subsection (5) hereof a  
298 description of the building or structure deemed unsafe, a statement of the particulars which  
299 make the building or structure a dangerous building and an order requiring the same to be put  
300 in such condition as to comply with the terms of this article within such length of time, not  
301 exceeding 30 days, as is reasonable.
- 302 ~~(7) Noncompliance with notice. Report to the council any noncompliance with the notice~~  
303 ~~provided for in subsections (5) and (6) hereof.~~
- 304 ~~(8) Testify at hearings. Appear at all hearings conducted by the council and testify as to the~~  
305 ~~condition of dangerous buildings.~~
- 306 (9 7) Notice on buildings. Place a notice on all dangerous buildings, reading as follows:
- 307 "This building has been found to be a dangerous building by the building inspector. This notice  
308 is to remain on this building unit until it is repaired, vacated and closed, or demolished in  
309 accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or  
310 agent of this building, and all other persons having an interest in said building, as shown by  
311 the land records of the recorder of deeds of Kent County. It is unlawful to remove this notice  
312 until such notice is complied with."
- 313 ~~(10) Orders of council. Carry out all orders of the council to cause the repair, vacation and~~  
314 ~~closure, or demolition of dangerous buildings pursuant to section 22-385. In causing the~~  
315 ~~vacation of the dangerous building, the building inspector may order the city utilities to~~  
316 ~~be disconnected. In causing the closure of dangerous buildings, the building inspector~~  
317 ~~may direct the removal from the building of all furniture, equipment and other personal~~  
318 ~~property left by vacated occupants.~~

319 (Ord. of 2-28-1955, § 4; Code 1981, § 5-89; Ord. of 10-28-1996; Ord. of 7-8-2002)

320 Sec. 22-385. - Hearing ~~before council~~.

321 The ~~council of the~~ city shall:

322 (1) Notice of hearing. Upon receipt of a report of the building inspector as provided for in section  
323 22-384(7), give written notice to the owner, occupant, mortgagee, lessee, agent, and all other  
324 persons having an interest in said building, as shown by the records of the recorder of deeds  
325 of the county, to appear before it on the date specified in the notice to show cause why the  
326 building or structure reported to be a dangerous building should not be repaired, vacated and  
327 closed, or demolished in accordance with the statement of particulars set forth in the building  
328 inspector's notice provided for herein in section 22-384(6).

329 (2) Conduct of hearing. Hold a hearing and hear such testimony as the building inspector or the  
330 owner, occupant, mortgagee, lessee, or any other person having an interest in said building, as  
331 shown by the land records of the recorder of deeds of the county, shall offer relative to the  
332 dangerous building. Hearings relative to reported dangerous buildings as defined in section  
333 22-381(11) shall include the testimony of the city chief of police, who may submit arrest  
334 records, complaint records, and affidavits relative to the property as evidence for the hearing.

335 (3) Findings. Make written findings of fact from the testimony offered pursuant to subsection (2)  
336 of this section as to whether or not the building in question is a dangerous building within the  
337 terms of section 22-381.

338 (4) Order. Issue an order based upon findings of fact made pursuant to subsection (3) of this  
339 section, commanding the owner, occupant, mortgagee, lessee, agent and all other persons  
340 having an interest in said building, as shown on the land records of the recorder of deeds of the  
341 county, to repair, vacate and close, or demolish any building found to be a dangerous building  
342 within the terms of this article, setting the time within which said building shall be repaired,  
343 vacated and closed, or demolished, and provided that any person so notified, except the  
344 owners, shall have the privilege of either vacating or repairing said dangerous building; or any  
345 person not the owner of said dangerous building but having an interest in said building as  
346 shown by the land records of the recorder of deeds of the county may demolish said dangerous  
347 building at his own risk to prevent the acquiring of a lien against the land upon which said  
348 dangerous building stands by the city as provided in subsection (5) hereof.

349 (5) Failure to comply. If the owner, occupant, mortgagee, or lessee fails to comply with the order  
350 provided for in subsection (4) hereof within ten days, cause such building or structure to be  
351 repaired, vacated and closed, or demolished, as the facts may warrant, under the standards  
352 hereinbefore provided for in section 22-384, and shall, with the assistance of the city solicitor,  
353 cause the costs of such repair, vacation, or demolition to be charged against the land on which  
354 the building existed as a municipal lien or cause such costs to be added to the tax duplicate as  
355 an assessment, or to be levied as a special tax against the land upon which the building stands  
356 or did stand, or to be recovered in a suit at law against the owner, provided that in cases where  
357 such procedure is desirable and any delay thereby caused will not be dangerous to the health,  
358 morals, safety, or general welfare of the people of this city, ~~the council shall notify~~ the city  
359 solicitor **shall be notified** to take legal action to force the owner to make all necessary repairs  
360 or demolish the building.

361 (6) Report to solicitor. Report to the city solicitor the names of all persons not complying with the  
362 order provided for in subsection (4) hereof.

363 (Ord. of 2-28-1955, § 5; Code 1981, § 5-90; Ord. of 10-28-1996)

364 **Sec. 22-386. - Violations; penalty for disregarding notices or orders.**

365 (a) Violations by owner. The owner of any dangerous building who shall fail to comply with any  
366 notice or order to repair, vacate and close, or demolish said building ~~given by the council~~ shall  
367 be guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided for in  
368 Appendix F-Fees and Fines.

369 (b) Violations by occupant or lessee. The occupant or lessee in possession who fails to comply  
370 with any notice to vacate and close or who fails to repair said building in accordance with any  
371 notice given by the council as provided for in this article shall be guilty of a misdemeanor and,  
372 upon conviction thereof, shall be fined as provided for in Appendix F-Fees and Fines.

373 (c) Removal of notice. Any person removing the notice provided for in section 22-384(9) shall be  
374 guilty of a misdemeanor and, upon conviction, shall be fined as provided for in Appendix  
375 F-Fees and Fines.

376 (d) ~~†Late payment.†~~ Fines not paid within 14 days of the day the fine was issued, including the day  
377 the fine was issued, shall be automatically doubled in amount.

378 (Ord. of 2-28-1955, § 6; Code 1981, § 5-91; Ord. of 10-28-1996; Ord. of 9-22-2003; Ord. No.  
379 2009-09, 6-22-2009)

380 **Sec. 22-387. - Duties of the city solicitor.**

381 The city solicitor shall:

382 (1) Prosecutions. Prosecute all persons failing to comply with the terms of the order provided for  
383 in section 22-385(4).

384 (2) Hearings. Appear at all hearings ~~before the council~~ in regard to dangerous buildings.

385 (3) Collections. Bring suit to collect all municipal liens, assessments, or costs incurred in repairing  
386 or causing to be vacated and closed or demolished dangerous buildings.

387 (4) Other legal action. Take such other legal action as is necessary to carry out the terms and  
388 provisions of this article.

389 (Ord. of 2-28-1955, § 7; Code 1981, § 5-92; Ord. of 10-28-1996)

390 **Sec. 22-388. - Emergency cases.**

391 In cases where it reasonably appears that there is an immediate danger to the life or safety of any  
392 person, unless a dangerous building is immediately repaired, vacated and closed, or demolished, the  
393 building inspector shall report such facts to the council, which may cause the immediate repair,  
394 vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation  
395 or demolition of such dangerous building shall be collected in the same manner as provided in  
396 section 22-385(5).

397 (Ord. of 2-28-1955, § 8; Code 1981, § 5-93; Ord. of 10-28-1996)

398 **Sec. 22-389. - Procedure when owner absent from the city.**

399 In cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from  
400 the city, all notices or orders provided for herein shall be sent by registered or certified mail to the  
401 owner, occupant, mortgagee, lessee and all other persons having an interest in said building, as  
402 shown by the land records of the recorder of deeds of the county, to the last known address of each,  
403 and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which  
404 it relates. Such mailing and posting shall be deemed adequate service.

405 (Ord. of 2-28-1955, § 9; Code 1981, § 5-94)

406 **Sec. 22-390. - Administrative liability.**

407 No officer, agent, or employee of the city shall render himself personally liable for any damage that  
408 may accrue to persons or property as a result of any act required or permitted in the discharge of his  
409 duties under this article. Any suit against any officer, agent, or employee of the city as a result of any  
410 act required or permitted in the discharge of his duties under this article shall be defended by the city  
411 solicitor until the final determination of the proceedings therein.

412 (Ord. of 2-28-1955, § 10; Code 1981, § 5-95)

413 **Sec. 22-391. - Duties of fire marshal and city employees.**

414 The fire marshal, all members of the fire department, all officers of the police department, and all  
415 other employees of the city shall report, in writing, to the building inspector all buildings or  
416 structures within the city which shall come to their knowledge or attention as being dangerous  
417 buildings within the terms of this article.

418 (Ord. of 2-28-1955, § 11; Code 1981, § 5-96)

419 Secs. 22-392—22-399. - Reserved.

420 **BE IT FURTHER ORDAINED:**

421 That Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Sec. 46-125 - Appeal;  
422 hearing, be amended by inserting the text indicated in bold blue and deleting the text indicated in red  
423 strikeout as follows:

424 **Sec. 46-125. - Appeal; hearing.**

425 *Appeal; hearing.* Whenever any person is aggrieved by a decision of the fire marshal with  
426 respect to the provisions of this chapter, it is the right of that person to appeal to the  
427 **construction and property maintenance code** board of appeals, as provided for in Chapter  
428 22-Buildings and Building Regulations, Article I-General, Section 22-1- ~~Construction and~~  
429 ~~property maintenance code board of appeals~~ **Adopted (a) - Appendix B - Board of**  
430 **Appeals of the 2018 International Building Code. Such appeal must be filed, in writing,**  
431 **within 30 days after the determination by the fire marshal. Upon receipt of such appeal,**  
432 **the construction and property maintenance code board of appeals shall set a time and**  
433 **place, in not less than ten or more than 30 days, for the purpose of hearing the appeal.**

434 ~~Notice of the time and place of the hearing of the appeal shall be given to all parties, at~~  
435 ~~which time they may appear and be heard.~~ The determination by the **construction and**  
436 **property maintenance code** board of appeals shall be final in all cases.

437 (Ord. No. 2016-19 , 8-22-2016)

438 Editor's note- Ord. No. 2016-19 , adopted August 22, 2016, in effect, repealed § 46-125 and enacted  
439 a new § 46-125. Former § 46-125 pertained to construction code appeals committee and derived  
440 from the Code of 1981; Ord. of 5-10-1982; and Ord. of 11-22-1993.

441 **BE IT FURTHER ORDAINED:**

442 That Chapter 46 - Fire Prevention and Protection, Article IV - Public Occupancies, Sec. 46-170 -  
443 Appeals, be amended by inserting the text indicated in bold blue and deleting the text indicated in  
444 red strikeout as follows:

445 **Sec. 46-170. - Appeals.**

446 (a) *Right generally.* Any owner or operator of any public occupancy structure whose permit  
447 to operate the structure is suspended by the fire marshal or city licensing officer pursuant  
448 to this article shall have the right to appeal and notice as provided in this chapter.

449 (b) *Notice; effect.* Upon suspension of a permit ordered by the fire marshal or city licensing  
450 officer pursuant to section 46-169 and upon the permittee ~~servicing the city clerk with~~  
451 **filing** a notice of appeal pursuant to section 46-125, the permit suspension shall be stayed  
452 and the permit shall remain in abeyance until the appeal is decided by the **council board**  
453 **of appeals.**

454 (Code 1981, § 7-71; Ord. of 11-22-1993; Ord. of 11-27-2000)

455 **BE IT FURTHER ORDAINED:**

456 That Chapter 50 - Floods, Article IV - Variances, Sec. 50-46 - Variances, be amended by inserting  
457 the text indicated in bold blue and deleting the text indicated in red strikeout as follows:

458 **Sec. 50-46. - Variances.**

459 The City of Dover ~~construction and property maintenance code~~ board of appeals, as provided for  
460 in chapter 22, Buildings and Building Regulations, article I, In General, section 22-1. - **Adopted,**  
461 **(a) Appendix B - Board of Appeals of the 2018 International Building Code as published by**  
462 **the International Code Council, the board of appeals** shall have the power to authorize, in  
463 specific cases, such variances from the requirements of these regulations and the flood load and flood  
464 load and flood-resistant construction of the building code, not inconsistent with federal regulations,  
465 as will not be contrary to the public interest where, owing to special conditions of the lot or parcel,  
466 a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

467 (1) Application for a variance.

468 a. Any owner, or agent thereof, of property for which a variance is sought shall submit an

- 469 application for a variance to the floodplain administrator.
- 470 b. At a minimum, such application shall contain the following information: Name, address,  
471 and telephone number of the applicant; legal description of the property; parcel map;  
472 description of the existing use; description of the proposed use; location of the floodplain;  
473 description of the variance sought; and reason for the variance request. Each variance  
474 application shall specifically address each of the considerations in section 50-46(2) and the  
475 limitations and conditions of section 50-46(3).
- 476 (2) Considerations for variances. In considering variance applications, the City of Dover  
477 construction and property maintenance code board of appeals shall consider and make findings  
478 of fact on all evaluations, all relevant factors, requirements specified in other sections of these  
479 regulations, and the following factors:
- 480 a. The danger that materials may be swept onto other lands to the injury of others.  
481 b. The danger to life and property due to flooding or erosion damage.  
482 c. The susceptibility of the proposed development and its contents (if applicable) to flood  
483 damage and the effect of such damage on the individual owner.  
484 d. The importance of the services provided by the proposed development to the community.  
485 e. The availability of alternative locations for the proposed use which are not subject to, or  
486 are subject to less, flooding or erosion damage.  
487 f. The necessity to the facility of a waterfront location, where applicable, or if the facility is  
488 a functionally dependent use.  
489 g. The compatibility of the proposed use with existing and anticipated development.  
490 h. The relationship of the proposed use to the comprehensive plan for that area.  
491 i. The safety of access to the property in times of flood for ordinary and emergency vehicles.  
492 j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood  
493 waters and the effects of wave action, if applicable, expected at the site.  
494 k. The costs of providing governmental services during and after flood conditions, including  
495 maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and  
496 water systems, and streets and bridges.
- 497 (3) Limitations for variances.
- 498 a. An affirmative decision on a variance request shall only be issued upon:
- 499 1. A showing of good and sufficient cause. A "good and sufficient" cause is one that  
500 deals solely with the physical characteristics of the property and cannot be based on  
501 the character of the planned construction or substantial improvement, the personal  
502 characteristics of the owner or inhabitants, or local provisions that regulate standards  
503 other than health and public safety standards.  
504 2. A determination that failure to grant the variance would result in exceptional  
505 hardship due to the physical characteristics of the property.  
506 3. Increased cost or inconvenience of meeting the requirements of these regulations  
507 does not constitute an exceptional hardship to the applicant.  
508 4. A determination that the granting of a variance for development within any  
509 designated floodway, or special flood hazard area with base flood elevations but no  
510 floodway, will not result in increased flood heights beyond that which is allowed in  
511 these regulations.  
512 5. A determination that the granting of a variance will not result in additional threats to

- 513 public safety; extraordinary public expense, nuisances, fraud on or victimization of
- 514 the public, or conflict with existing local laws.
- 515 6. A determination that the structure or other development is protected by methods to
- 516 minimize flood damages.
- 517 7. A determination that the variance is the minimum necessary, considering the flood
- 518 hazard, to afford relief.
- 519 b. Upon consideration of the individual circumstances, the limitations and conditions, and the
- 520 purposes of these regulations, the City of Dover construction and property maintenance
- 521 code board of appeals may attach such conditions to variances as it deems necessary to
- 522 further the purposes of these regulations.c.The City of Dover construction and property
- 523 maintenance code board of appeals shall notify any applicant in writing to whom a variance
- 524 is granted for a building or structure with a lowest floor elevation below the base flood
- 525 elevation that the variance is to the floodplain management requirements only, and that the
- 526 cost of federal flood insurance will be commensurate with the increased risk.

527 (Ord. No. 2014-09, 6-9-2014 ; Ord. No. 2016-19 , 8-22-2016)

528 ADOPTED: \*  
529 S:\ORDINANCES\2020\DRAFT\ORDINANCE #2020-04 - DANGEROUS BUILDINGS\ORDINANCE #2020-04-AMENDING DANGEROUS BUILDINGS.wpd

530 **SYNOPSIS**  
531 \*  
532 (SPONSORS: \*, \*, \*)

533 Actions History  
534 02/11/2020 - Introduction - Council Committee of the Whole/Legislative, Finance, and Administration Committee