Chapter 22

Property Management

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History: Sections 22-1, 22-2 and 22-3 were Article VI and Sections 22-4 and 22-5 were Sections 10-5 and 10-6 from Ordinance 1000.

Section 22-1 Sanitation and Cleanliness of Dwellings and Premises

a.) It shall be unlawful for any owner of a dwelling, establishment or structure, within the corporate limits of Delaware City or any part thereof, to fail to keep such dwelling, establishment or structure in a clean and sanitary condition and free from any accumulation of dirt, filth, rubbish, garbage or similar matter, free from vermin or rodent infestation and free from all disease-causing conditions or materials.

b.) It shall be unlawful for any owner of property within the corporate limits of Delaware City to fail to keep his property or premises in a clean and sanitary condition free from accumulations of rubbish, garbage, vermin and rodent infestation and all other disease-causing conditions or materials.

c.) Violations of Subsections a or b of this Section shall constitute a nuisance, and the Mayor and Council upon recommendation of the Board of Health shall send a written notice of violation to such owner. Thereafter, the owner shall have ten (10) days after the date of service of the notice of violation opinion of the Board of Health such nuisance constitutes an actual and immediate present danger to health, the owner shall abate such nuisance immediately.

d.) Failure of an owner to abate a nuisance, after receiving notice pursuant to this Section, within the time period, if any, specified therein, shall constitute a violation of this Section; and upon conviction, the owner shall be subject to the penalties provided in Section 22-4.

e.) The Board of Health and/or Mayor and Council are empowered to institute any action appropriate under State law in lieu of action under this Section. Any rights or remedies provided in this Section shall not operate in relation to any action taken under State law. (See 16 Del.C. §§311 and 312.)

Section 22-2 Unsanitary Conditions Constituting a Menace to Life and Health.

a.) Whenever any dwelling or any building, structure, excavation, business pursuit, matter, condition or thing in or about a dwelling or the lot on which it is situated, or the plumbing, sewerage, drainage, heating, light or ventilation thereof, is found by the Board to be dangerous or detrimental to life or health, the Mayor and Council upon recommendation of the Board may order that the matter, condition of thing be removed, abated, suspended, altered or otherwise improved as the order shall specify.

b.) If any such order of the Mayor and Council issued under the authority of the provisions of this Section is not complied with within ten (10) days after the service thereof, or within such shorter time as may be designated as being necessary and explained in writing under the circumstances, then such order may be executed by said Mayor and Council through their

officers, agents, employees or contractors, and the expense incurred incident to said order shall be paid by the owner of said property, and until so paid shall be a lien upon the realty and recoverable as other liens on realty in Delaware City, or they may order the premises vacated; provided, however, that when in the opinion of the Board such matter, condition of thing is in a state of nuisance which constitutes and actual and immediately present menace to life and health, the Mayor and Council shall proceed forthwith to cause such nuisance to be abated; but in no case shall a lien attach to the property unless a notice, as hereinbefore provided, has been issued.

c.) Before proceeding to execute such order, the Mayor and Council shall post a notice on the front of the building stating that since such order was not complied with within the time mentioned in said notice, the Mayor and Council will proceed to execute the same at the expiration of an additional five (5) days and charge the cost thereof to the owner of the premises. A copy of such notice shall be sent to the owner of the property of his agent if names and addresses, on diligent search, can be ascertained; and such notice shall be posted on said premises at least five (5) days before the Mayor and Council proceeds to incur expenses unless the condition is of such a character requiring immediate action, in which case the time of the notice shall be such as, in the judgment of the Board of Health, is reasonable and proper.

Section 22-3 Rules and Regulations Regarding Hygiene of Housing

The Board of Health is hereby authorized and empowered to make and adopt such rules and regulations regarding hygiene and sanitation of housing for the enforcement of this Chapter for the better protection of the health of the City.

Section 22-4 Penalties

Except in cases where it is otherwise provided by law or ordinance, any person violating any of the provisions of this Chapter or the Rules and Regulations of the Board, or who shall oppose or impede a Board Member in the execution of his duties hereunder, shall be deemed guilty of a misdemeanor; and upon conviction thereof after trial before a Magistrate shall be punished by a fine in the sum not exceeding one hundred dollars ($100.00) or by imprisonment for a period not exceeding thirty (30) days or by both such fine and imprisonment.

Section 22-5 Separate Offenses

Each day during which any act prohibited or any duty required, by any provision of this Chapter or the rules and regulations of the Board is committed or is willfully neglected or refused to be complied with, and each day during which a nuisance, as stated in this Chapter, or rules and

regulations of the Board is maintained, continued or suffered or permitted to be maintained, or continued to exist shall constitute a distinct and separate offense and be punishable as such.

Section 22-6 Leasee/Tenant Summary Eviction

After two convictions within a twelve month period by a renter, boarder, or roomer for violating Title 11 of the State of Delaware Code (Crimes and Criminal Procedure); the Delaware City Code Chapter 22 (Property Management); Chapter 24 (Animal Regulations); Chapter 25 (Alcoholic Beverages and Drugs); Chapter 26 (Nuisances); Chapter 29 (Firearms); or any other property maintenance requirements attributable to the renter, boarder, or roomer at their leased premises, the owner or landlord of said premises is required to provide written notice to all renters, boarders, or roomers residing in the relevant leased premises of the commencement of eviction proceedings pursuant to the provisions of the Delaware Landlord Tenant Code.

The owner or landlord of the leased premises, or an agent thereof, shall immediately initiate and pursue a good faith summary possession proceeding as specified in 25 Del. C., Part III, Landlord Tenant Code. Failing to initiate such a proceeding within sixty (60) days after the owner or landlord receives notice of two convictions within a twelve month period by a renter, boarder, or roomer is deemed a violation of this section.

Offenses at any single leased premises shall be cumulative. Convictions under this section by two different renters, boarders, or roomers at the same leased premises within a twelve month period shall result in commencement of eviction proceedings as set forth in this section.

This section shall not prohibit the execution of a new lease between the owner of the relevant premises and any person named as a renter, boarder, or roomer on a prior lease who was not subject to either of the two convictions which resulted in the termination of the prior lease and the commencement of eviction proceedings.

It shall be a violation of this section for any owner or landlord to enter into a new lease of the same premises with a person who has been convicted of two offenses listed in this section and lawfully evicted for a period of one year following the date of the eviction of such person.

Landlords or owners shall notify their renters, boarders, or roomers of Chapter 22-6 in writing, and the provisions of this section 22-6 shall be incorporated into any written lease between any landlord and any renter, boarder, or roomer.

Failure to comply with section 22-6 is subject to the penalties as set forth in section 22-7 of this chapter.

Section 22-7 Penalty

Owners or landlords found in violation of Chapter 22-6 of this Code shall be subject to a one hundred dollar ($100) per day fine and each day a violation exists shall constitute a separate offense. [1]

Section 22-8 Registration of Vacant Properties

a.) **Purpose**. The purpose of this section requiring the registration of all vacant buildings dwellings, and mobile dwelling units, and the payment of registration fees is to protect the public health, safety and welfare, to monitor the number of vacant properties in the City, to assess the effects of these buildings on nearby businesses and the neighborhoods – particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require the owners of vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, and any other provisions of the applicable law.

b.) **Vacancy**. A building, a dwelling, a mobile dwelling, or any other structure shall be deemed vacant if no person actually or currently conducts a lawfully licensed business, or lawfully resides in any part of the building as the legal or equitable owner(s) or tenant-occupants(s), or owner-occupants, or tenant(s) on a permanent/non-transient basis.

c.) **Applicability**. The requirements of this section shall be applicable to each owner of any building or residential property consisting of one or more dwellings that shall have been vacant for more than sixty (60) consecutive days. Each owner shall file a notarized registration statement, which shall include the street address and parcel number of each vacant building, the names and addresses of all owners, and any other information deemed necessary by the City Manager. First-time registrants must pay their annual vacant property registration fee as required by subsection 22-8(e) of this section contemporaneously with the submission of their registration statement.

d.) **Registration Statement**. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for sixty (60) consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fee be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code, housing code or property maintenance requirement. One registration statement may be filed to include all vacant buildings belonging to a single owner,

however, a separate registration fee as required by subsection 22-8(e) must be paid for each vacant property. The owner of the vacant property as of November 1 of each calendar year shall be responsible for the payment of the non-refundable registration fee on January 1 of each year.

e.) **Registration Fees**. The annual vacant property registration fee shall be non-refundable and shall be set at $100.00. Failure to timely register or pay the registration fee shall result in a fine of $25.00 each month the vacant property remains unregistered.

f.) **Appeal Rights**. The owner shall have the right to appeal the imposition of the registration fee to the Board of Adjustments, upon filing an application in writing with the applicable $50.00 non-refundable filing fee no later than thirty (30) calendar days from the date the registration fee is due. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy.

g.) **One-time Waiver of Registration Fee**. A one-time waiver of the registration fee, or an extension of a waiver for up to twelve (12) months from the date of the billing statement immediately following the waiver, ma be granted by the City Manager within 30 calendar days from the date the registration fee is due, if the owner:

1. Demonstrates with satisfactory proof to the City Manager that he/she is in the process if demolition, rehabilitation, or other substantial repair of the vacant building; and

2. Objectively demonstrates to the City manager the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or

3. Provides satisfactory proof to the City Manager that he/she is actively attempting to sell or lease the property during the vacancy period; and

4. Has paid all past due vacant registration fees and all other financial obligations and/or debts owed to The City of Delaware City which are associated with the vacant property, including, but not limited to, those obligations enumerated in Title 25, Section 2901 of the Delaware Code.

5. With regard to an extension of a waiver only, the time period of the extension shall commence from the date when the payment is due and, in no event, shall the extension exceed 12 months. An extension of a waiver shall only be granted once.

h.) **Delinquent Registration Fees as a Lien**. After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection 22-8(f) above, and the owner fails to pay the amount due, said amount

[1] Chapter 22 Sections 22-6 & 22-7 Adopted by Ordinance 12-1015-01 on 11-19-12

shall constitute a debt due and owing to the City, and the City may commence a civil action to collect such unpaid debt.[2]

[2] Added Section 22-8 with Ordinance 13-0128-02 and Adopted on 2-25-13