

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

Ordinance No. 12-1015-01

ORDINANCE TO ESTABLISH CHAPTER 22 SECTIONS 22-6 AND 22-7 OF THE CODE OF THE CITY OF DELAWARE CITY TO CREATE A LEASEE/TENANT SUMMARY EVICTION POLICY FOR MORE THAN TWO CONVICTIONS OF EITHER THE CITY OF DELAWARE CITY CODE OR STATE OF DELAWARE CODE WITHIN A TWELVE MONTH PERIOD

Chapter 22 – Property Management

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code (the "Code"); and

WHEREAS, the Mayor and City Council deem it in the best interest of the health, safety, and welfare of The City of Delaware City to establish a leasee/tenant summary eviction policy ("Leasee/Tenant Summary Eviction"); and

WHEREAS, to establish a Leasee/Tenant Summary Eviction provision in the Code, the Mayor and City Council desire to adopt Chapter 22, §§ 22-6 through 22-7 as part of the Code as set forth below ("Proposed Code Sections"); and

WHEREAS, pursuant to Article V, Section 5-02(B) of the Charter, the Proposed Code Sections were introduced by a member of Council at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City:

NOW, THEREFORE, the Mayor and Council of The City of Delaware City do hereby ordain as follows:

Section 1. Chapter 22, Section 22-6 of the Delaware City Code, upon an affirmative vote of the Mayor and City Council, is hereby adopted and shall read as follows:

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 2. Chapter 22, Section 22-7 of the Delaware City Code, upon an affirmative vote of the Mayor and City Council, is hereby adopted and shall read as follows:

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.

Section 3. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 4. Repeal. Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided that any such repeal shall not abate a right of action already accrued under any repealed Ordinance.

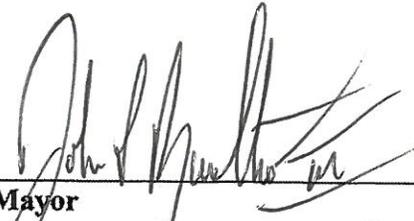
Section 5. Effective Date. This Ordinance shall become effective immediately upon passage.

(Signature Page Follows)

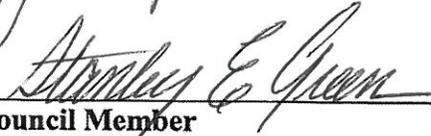
ADOPTED BY THE MAYOR AND COUNCIL, this 19th day of November, 2012.

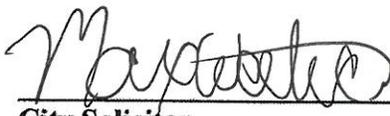
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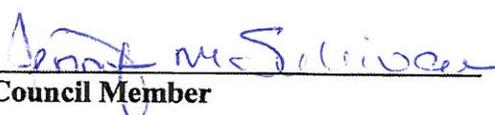

City Secretary


Mayor

APPROVED AS TO FORM:


Council Member


City Solicitor


Council Member


Council Member


Council Member

Council Member

First Reading on 10/15/12,
Second Reading and Passage on 11/19/12.