"A Historic Past"

"A Bright Future"

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

CITY OF DELAWARE CITY
DELAWARE CITY, DELAWARE
Ordinance No. 14 – 1215-03

ORDINANCE TO AMEND THE CITY OF DELAWARE CITY CODE FOR THE PURPOSE OF, AMONG OTHER THINGS, ADOPTING STANDARDS AND ENFORCEMENT PROCEDURES FOR PROPERTY MAINTENANCE

The City of Delaware City

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 ("Code");

WHEREAS, the Mayor and City Council desire to create standards and requirements for the maintenance, inspection and control of property located in the City and desire to amend the Code by adopting a new Chapter 52 entitled "Property Maintenance" through this Ordinance;

WHERAS, the Mayor and City Council believe that the new Chapter 52 attached hereto as Exhibit A enhances the health, safety, and welfare of the City of Delaware City;

WHEREAS, the City Council has also held a public hearing, regarding the new proposed Chapter 52;

WHEREAS, in addition to the notice provided above, under Article V, Section 5-02(B) of the Charter, the proposed property maintenance code was introduced 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 the City Council of The City of Delaware City hereby ordain:

Section 1. Chapter 52 entitled "Property Maintenance" attached to this Ordinance as Exhibit A is hereby adopted.

Section 2. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that are in direct conflict herewith are hereby repealed.

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. Effective Date. This Ordinance shall become effective immediately upon its adoption by a majority vote of the City Council.

Signature Page Follows

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 2014.

ATTEST:

_____
City Secretary

_____
Mayor

APPROVED AS TO FORM:

_____
Council Member

_____
City Solicitor

_____
Council Member

_____
Council Member

_____
Council Member

_____
Council Member

First Reading on: December 15, 2014

Date of Publication: November 26 & December 3, 2014.

Second Reading, Public Hearing, and Final Passage on: _____.

Chapter 52

Property Maintenance

Section 52-1 Adoption of the International Property Maintenance Code.

Section 52-2 Amendments to the International Property Maintenance Code.

Section 52-1 Adoption of the International Property Maintenance Code.

A certain document, a copy of which is on file in City Hall of the City of Delaware City, being marked and designated as the International Property Maintenance Code, 2012 edition, and any supplements to this International Code, as published by the International Code Council, Inc., be and hereby is adopted as the Property Maintenance Code of the City of Delaware City in the State of Delaware for the control of buildings, land, and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Property Maintenance Code are hereby referred to, adopted and made part hereof as if fully set forth in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in this chapter.

Section 52-2 Amendments to the International Property Maintenance Code.

Certain sections and subsections of the International Property Maintenance Code, 2012 Edition are hereby added, deleted, amended, changed and clarified as follows.

A. Section 101.1, Title, is amended by deleting the subsection in its entirety and substituting the following:

> Section 101.1, Title. These regulations shall be known as the City of Delaware City Property Maintenance Code, hereinafter referred to as "this Chapter".

B. Section 101.1.1, Jurisdiction, is added as a new subsection to read as follows:

> Section 101.1.1, Jurisdiction. This Chapter shall regulate all housing and property maintenance on any property in the City of Delaware City.

C. Section 101.2, Scope, is amended by deleting the subsection in its entirety and substituting the following:

> Section 101.2, Scope. The provisions of this Chapter shall apply to all existing residential and nonresidential structures and all existing premises, excluding state right-of-way, and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibilities of owners, owners and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

D. Section 101.3, Intent, is amended by deleting the subsection in its entirety and substituting the following:

> Section 101.3, Purpose. This Chapter shall be liberally construed to promote and safeguard the health, safety and welfare of the public by establishing the minimum requirements and standards for all properties, buildings and structures within the City of Delaware City.

E. Section 101.4, Severability, is amended by deleting the subsection in its entirety and substituting the following:

> Section 101.4, Severability. The provisions of this Chapter shall be severable. If any provision of this Chapter is found by a court of competent jurisdiction to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this Chapter.

F. Section 101 is hereby amended to add the following subsection to read as follows:

> Section PM 101.5, Conflict. Where there is a conflict between a provision in this Chapter and another chapter of the City of Delaware City Code, the most restrictive provision shall apply.

G. Section 101 is amended to add the following subsection to read as follows:

> Section 101.6, No liability created. Nothing in this Chapter shall create any liability for loss or damage resulting from the failure of the City of Delaware City to perform any responsibility set forth in this Chapter or obligate the City of Delaware City to make any appropriation or expend any money not appropriated for any purpose set forth in this Chapter.

H. Section 101 is amended to add the following subsection to read as follows:

> Section 101.7, Effect upon suits, proceedings, rights, liabilities. Nothing in this Chapter or in any of the codes hereby adopted shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any causes of action acquired or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any character be lost impaired, or affected by this Chapter.

I. Section 102.3, Application of other Codes, is amended by deleting the subsection in its entirety and substituting the following:

> Section 102.3, Application of other Codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of Chapter 52. Nothing in this Chapter shall be construed to cancel, modify or set aside any other provisions of the City of Delaware City Code.

J. Section 102.6, Historic buildings, is amended by adding the following at the end of the paragraph: "Nothing contained in this Chapter shall be construed to override statutes, laws, ordinances, rules or regulations with respect to the architectural or design integrity of buildings which have been designated as historic structures or which have historical significance, provided that such structures are maintained in good condition and repair and are not a threat to the health, welfare, or safety of the occupants of the premises or the general public."

K. Section 102.7, Referenced codes and standards, is amended by deleting the subsection in its entirety and substituting the following:

> Section 102.7, Referenced codes and standards. The codes and standards referenced herein shall be considered part of the requirements of this Chapter to the prescribed extent of each such reference. Where differences occur among this Chapter, and the referenced standards, the provisions of this Chapter shall prevail over the provisions of the International Codes, and the provisions of the International Codes shall prevail over any referenced standards.

L. Section 102 is hereby amended to add the following subsection:

> Section 102.9, Savings clause. This Chapter shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

M. Section 103.1, Department of Property Maintenance Inspection, is amended by deleting the section in its entirety and substituting the following:

Section 103.1, General. The department charged with enforcement of this chapter shall be the Department of Building Inspection and Code Enforcement and the executive official in charge shall be known hereafter as the Code Official.

N. Section 103.2, Department of Property Maintenance Inspection, is amended by deleting the section in its entirety.

O. Section 104.3, Right of entry, is amended by deleting the subsection in its entirety and substituting the following:

Section 104.3, Right of entry. The Code Official is authorized to enter the structure or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Code Official is authorized to apply to the Justice of the Peace Court for issuance of an administrative search warrant to verify compliance with the City of Delaware City Code.

P. Section 104.6, Department records, is amended by deleting the subsection in its entirety and substituting the following:

Section 104.6, Department records. The Code Official shall retain all of the investigatory files pertaining to current investigations and/or court proceedings. The files and/or its contents shall be kept and made available in accordance with Delaware's Freedom of Information Act ("FOIA").

Q. Section 105., Modifications, is amended by addition of the following subsection:

Section 105.1.1, Fees. A fee of $100.00 shall be charged for each request for code modification.

R. Section 106.1, Unlawful acts, is amended by deleting the subsection in its entirety and substituting the following:

Section 106.1, Violations; generally. Any person who shall violate any provision(s) of this Chapter or shall fail to comply with any of the requirements hereof, shall be subject to any of the enforcement mechanisms and penalties outlined in this Chapter.

S. Section 106.3, Prosecution of violation, is amended by deleting the subsection in its entirety and substituting the following:

Section 106.3, Enforcement.

Section 106.3.1, Administrative enforcement. Any person violating the provisions of this Chapter may be subject to administrative proceedings instituted by the Code Official. Violations subject to administrative enforcement shall be commenced within three (3) years as provided in 10 Del. C. § 8106 (actions subject to 3-year limitation).

Section 106.3.1.1, Notice to owner or person responsible. Whenever the Code Official determines that there has been a violation of this Chapter or has reasonable ground to believe that a violation has occurred, notice shall be given to the owner or persons responsible for the property. The person(s) noticed shall be responsible for correcting such violation(s).

Section 106.3.1.1.1, Form. The form of such notice prescribed in Section 106.3.1.1, shall be in accordance with Section 107.2.

Section 106.3.1.1.2, Method of service. Notice required by Section 106.3.1.1 shall be satisfied where a copy of the decision, or violation notice is: (a) delivered personally to the owner or person responsible for the property; or (b) mailed by regular United States mail and addressed to the owner or person responsible for the property at their last known address; or (c) posted in a conspicuous place on the property. Service of such notice in the foregoing manner upon an owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

Section 106.3.1.1.3, Exceptions. In no case shall the Code Official be required by Section 106.3.1.1 to provide a violation notice to:

a. Any owner or person previously provided notice pursuant to Section 106.3.1.1 or under any former provision of this Chapter, where the same violation is alleged by the Code Official to exist; or

b. In the event that a violation exists or is reasonably believed to exist, because work is being done in an unsafe or dangerous manner, jeopardizes the health, safety or welfare of the public, or is being done (or was done) in the absence of necessary permit(s), license(s) or registration(s).

Section 106.3.1.2, Ticketing. Pursuant to the Charter of the City of Delaware City and Title 25, Chapter 29 of the Delaware Code, the Code Official shall have the authority to issue ticket(s) to the owner of a property, regardless of whether the owner actually resides upon the property, including any vacant lots, for violations of Sections 302.4, "Prohibited Growth of Weeds and Grass; 302.7 "Accessory Structures"; 302.8.3 "Inoperable or Unregistered Vehicles"; 302.8.4, "Oversized Vehicle Parking"; 302.8.6 "Parking of Vehicles"; 302.10 "Outside Storage of Household Items"; 302.12 "Responsibility to Keep Shrubs and Trees Trimmed; 303.1 "Swimming Pools"; 302.11, "Outside Storage of Debris"; 307.1 "Accumulation"; and 307.2, "Disposal of Rubbish".

Section 106.3.1.2.1, Procedure. Whenever the Code Official receives a complaint that there has been a violation(s) of the above-referenced sections, a notice of alleged violation(s) shall be given to the owner of the property. The owner shall be responsible for correcting such violation(s) within five (5)

calendar days. If the Code Official determines that the violation(s) remains after the fifth (5th) calendar day, the owner of the property on which such non-compliance exists shall be subject to, and liable for, a civil penalty as set forth on the Schedule of Municipal Fees in Section 46-147. This civil penalty shall double if not paid within thirty (30) calendar days from the date of the citation. In no case shall the Code Official be required by this Section to provide notice within a twelve (12) month period to any owner previously provided notice pursuant to this Section where the same Code violation exists.

Section 106.3.1.2.2, Citation. Any citation issued for failure to comply with any provision identified in Section 106.3.1.2 shall be mailed to the owner of the property that is the subject of the citation. Pursuant to 25 Del. C. § 2901, civil penalties may be added to the City property tax billings for the property which was the subject of the citation. Additional civil penalties shall also double if not paid within thirty (30) calendar days from the date of the respective citation.

> Section PM 106.3.1.2.2.1, Continuing violations. After the recipient of a ticket(s) has an opportunity to appeal the ticket(s) as permitted by Section 106.3.1.2.4, the violation shall constitute a continuing violation; a ticket for the same violation may be issued each day the violation continues and a separate penalty for each day may be imposed.

Section 106.3.1.2.3, State of mind. It shall be unnecessary to prove the violator's state of mind with regard to the failure to comply with any provision of this Section, as the legislative purpose is to impose strict liability for such non-compliance.

Section 106.3.1.2.4, Appeals. The owner of a property aggrieved by any civil penalty imposed pursuant to Section 106.3.1.2 may follow any one of the following methods to appeal the ticket:

Section 106.3.1.2.4.1, Request a hearing before the City Manager. Within ten (10) calendar days of the date of the citation, the recipient of the ticket may request a pre-deprivation hearing from the City Manager as described in Section 106.3.1.3 below.

Section 106.3.1.2.4.2, Submit a detailed written explanation. In lieu of personally appearing before an administrative hearing officer as provided for in Section 106.3.1.2.4.1 above, the recipient of the ticket, at their sole discretion, may, within ten (10) calendar days of the date of the citation, file a detailed written explanation of the grounds for the appeal to the Code Official. The Code Official shall issue a written decision affirming, modifying, reversing, revoking or vacating the civil penalty within ten (10) calendar days of receipt of the written explanation of the grounds for the appeal.

Section 106.3.1.2.4.3, Fee. The fee for filing an appeal under this Section is $100.00. Such fee shall not be charged if the applicant prevails on all issues presented to the City Manager or at any level of appeal.

Section 106.3.1.2.4.4, Stay. Except as provided for in Section 108 of this Chapter, an appeal of a violation under this Section shall act as an automatic stay of the action being appealed.

Section 106.3.1.2.4.5, Appeal. The decision of the Code Official made pursuant to this Section must be appealed

in accordance with Section 106.3.1.6 "Administrative Appeal".

Section 106.3.1.3, Pre-deprivation show cause hearing. Except as provided in Section 106.3.1.2.1, if such violations are not remedied within the time specified, the Code Official shall schedule a show cause hearing and provide the person an opportunity to defend his, her, or its conduct at a show cause hearing prior to any penalty being imposed. After such show cause hearing, the Code Official shall render a decision within twenty (20) calendar days and send a written letter to the person informing them of his or her decision and detail the reason for any adverse action taken. Any decision made by the Code Official is appealable pursuant to Section 106.3.1.5. If the Code Official determines that the owner or person responsible for the property, building, structure, premises or equipment is in violation of this Code, the owner or person responsible shall be subject to a show cause hearing fee as set forth in the Schedule of Municipal Fees.

Section 106.3.1.4, Costs. The owner of the property or person responsible for the building, structure, premises, or equipment shall be responsible for all costs associated with the enforcement of this Code and the investigation, removal, remediation, or abatement of Code violations including the costs of reports, studies, and opinions prepared by design professionals, the institution and maintenance of temporary safeguards, restoration of unsafe buildings, structures or equipment, demolition, and reasonable attorney fees associated with the above. The costs shall be liens on the property to the extent permitted by law.

Section 106.3.1.5, Administrative penalty provisions. The following administrative penalties may be imposed by the Code Official:

Section 106.3.1.5.1, Administrative fines. Notwithstanding any other section of this Code, any person who is found to have violated any provision of this Code or directive of the Code Official, may be subject to the penalties specified in Section

106.3.2.3 for each day that the violation continues in addition to any expense incurred by the City of Delaware City for the removal or abatement of the violation. Administrative fines imposed pursuant to this section shall be a lien on the parcel of real property that the expense is incurred upon or which is the subject of the violation. Upon certification of the lien by the City Manager, the amount of such lien shall be recorded and collected in the same manner as other City real estate taxes, and paid to the City when collected.

Section 106.3.1.5.2, Institution of remedial action. The City may initiate action to remedy the violation. Upon completion of such remedial work, the violator shall be provided the opportunity to reimburse the City for the cost incurred. If the violator fails to reimburse the City of Delaware within the time period specified, the City of Delaware may:

(i) call or collect on any bond or insurance established for this purpose;

(ii) place a lien on any property within the City held by the person as permitted by state law; or

(iii) institute a civil action for the recovery of such expenses, together with any penalty and/or interest, against the person, and the City shall be awarded reasonable attorney fees.

An administrative fee of $50.00 for processing vendor requests and providing vendor services shall be charged for each instance such service is provided. This Section shall not be construed to limit any other actions or remedies at law or equity.

Section 106.3.1.6, Administrative appeal.

Section 106.3.1.6.1, Appeal to City Council. Any person aggrieved by any administrative enforcement action taken

pursuant to this Chapter, or any person who in good faith claims that the true intent of this Chapter or the rules legally adopted there under have been incorrectly interpreted, the provisions of this Chapter do not fully apply, or an equally good or better form of construction is proposed shall have the right to appeal to the City Council.

Section 106.3.1.6.2, Time. All appeals shall be filed the City Clerk within twenty (20) calendar days of the date the written decision is issued by the Code Official or City Manager. A public hearing will then be afforded to the appellant within forty-five (45) calendar days of the filing of the appeal.

Section 106.3.1.6.3, On record. Appeals shall be heard based solely upon the materials (e.g., plans, documents, reports, studies, drawings, and testimony) available to the official rendering the initial decision. Appeals shall not be used to consider new or additional information. Information submitted but not discussed in rendering a decision shall be considered part of the original record and may be considered on appeal. Testimony may be given based upon the material submitted to the decision-maker.

Section 106.3.1.6.4, Written decision. The City Council shall make findings of fact and shall render a decision, in writing, based upon the record created at the public hearing within twenty (20) calendar days.

Section 106.3.1.6.5, Actions that can be taken. The City Council may affirm, modify, reverse, vacate, or revoke the action appealed, provided that such action shall be affirmed by the City Council if the action was not arbitrary or capricious, or was not taken pursuant to law.

Section 106.3.1.6.6, Stay. If a stay of the action being appealed is desired, a written request must be submitted in writing to the Mayor. The stay will be granted unless the Code Official can demonstrate that the granting of the stay would jeopardize the health, safety or welfare of the public.

Section 106.3.1.6.7, Fee. The fee for filing of an appeal under this Section is $100.00. Such fee shall be refunded to the applicant if it prevails on all issues presented to the City Council after any right(s) to appeal have expired or have been exhausted.

Section 106.3.1.6.8, Writ of certiorari. An aggrieved party may appeal the decision of the City Council by filing a petition for a writ of certiorari in the Delaware Superior Court.

Section 106.3.2, Criminal enforcement. Any person violating the provisions of this Code may be subject to a criminal proceeding instituted by the Code Official or the City's attorney, or his or her designee. It is unnecessary to prove the defendant's state of mind with regard to offenses which constitute violations as the legislative purpose is to impose strict liability for such offenses.

Section 106.3.2.1, Dismissal of charges. Any person subject to criminal prosecution under this Chapter may avoid the same upon presenting sufficient evidence to establish that the alleged violation has been remedied. At the discretion of the City's attorney, or his or her designee, and if sufficient evidence is presented prior to trial, the City of Delaware City may enter a nolle prosequi with or without prejudice.

Section 106.3.2.2, Criminal proceedings. Justices of the Peace shall have jurisdiction throughout the State to hear, try and finally determine any violation or violations of any ordinance.

Only upon conviction shall the defendant have the right to appeal to the Court of Common Pleas.

Section 106.3.2.3, Penalties. Violations of this chapter shall be deemed misdemeanor offenses. The sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:

a. For the first conviction, the penalty shall be a fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000.00).

b. For the second conviction for the same offense, the penalty shall be a fine of not less than five hundred dollars ($500.00), nor more than two thousand five hundred dollars ($2,500.00).

c. For all subsequent convictions for the same offense, the penalty shall be a fine of not less than one thousand dollars ($1,000.00) nor more than five thousand dollars ($5,000.00). The unpaid fine amounts may be considered a tax lien and collected in the same manner as other real estate taxes.

"Fines" as used in this section shall also include any civil judgment awarded to the City thereof entered pursuant to 11 Del. C. § 4101 (Payment of fines, costs and restitution upon conviction), 25 Del. C. § 2901 et seq. (Liens of the State and/or its political subdivisions) or 9 Del. C. § 2907 et seq. (Abatement; creation of tax lien).

Section 106.3.2.4, Continuing violations. Each day any violation of this Chapter shall continue shall constitute a continuing violation for which a separate conviction may be

obtained and a separate penalty for each day shall be imposed, and shall be considered a single conviction for the purposes of Section 106.3.2.3.

Section 106.3.3, Civil enforcement. Any person violating the provisions of this Chapter may be subject to a civil proceeding instituted by the City's attorney or his or her designee. The City of Delaware City may apply to the Court of Chancery for injunctive relief against the person, to prevent, restrain, correct, abate, remove, or enjoin any violation of the provisions of this Chapter.

T. Section 106.4, Violation penalties, is amended by deleting the subsection in its entirety and substituting the following:

Section 106.4, Violation Penalties. Any person firm, corporation, partnership, or representatives thereof, who fails to comply with Chapter 52, Code of the City of Delaware City shall be guilty of a violation and upon conviction, shall be punished by a fine of not less than $100.00 nor more than $500.00, or imprisonment for not more than thirty (30) days, or both, and the further sum of $100.00 for each and every day that such violation is permitted to continue. For the purpose of this section the violation of any section of Chapter 54 shall constitute a separate offense. Invocation of the above penalties shall not preclude the code official of the City of Delaware City from instituting appropriate action or proceedings to prevent an illegal act, conduct, business, or use in or about the premises.

U. Section 106.5, Abatement of violation, is amended by deleting the subsection in its entirety and substituting the following:

Section 106.5, Abatement of violation. The imposition of the penalties and remedies herein prescribed shall not preclude the Code Official or his or designee from instituting the appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of a building, structure or premises when such person fails to

correct the violation after due notice, either actual or constructive, has been given to the person responsible, and where such person has had the opportunity to be heard by an administrative tribunal or court of competent jurisdiction on the issue of the violation.

Section 106.5.1, Reimbursement. Upon completion of any action taken by the City to correct or abate a violation, the violator shall be provided the opportunity to reimburse the City of Delaware City for any costs incurred. An administrative fee for processing vendor requests and providing vendor services shall be charged for each instance such service is provided as set forth in the Schedule of Municipal Fees.

Section 106.5.2, Remedies. Upon failure to reimburse the City within the time period specified, the City may:

a. Call or collect on any bond or insurance established for this purpose;

b. Place a lien upon the parcel of real property which is the subject of the abatement or after a Notice of Lien is filed on any property within the City which is held by the responsible person. Upon certification of the lien by the City Manager, the amount of such lien shall be recorded and collected in the same manner as other City real estate taxes and paid to the City when collected. There shall be a right to appeal the abatement cost to the City Council; or

c. Institute a civil action for the recovery of such expense, together and with penalty and/or interest, against the person, and the City shall be awarded reasonable attorney fees. This Section shall not be construed to limit any other actions or remedies at law or equity.

V. Section 106.6, Extensions, is added as a new subsection to read as follows:

Section 106.5, Extensions. Application for an extension of the time frame to correct the violations addressed in the violation notice may be

made in writing to the Code Official. The Code Official is authorized to grant, in writing, one (1) or more extensions of time. The applicant must demonstrate justifiable cause and explain all pertinent surrounding circumstances including reasons for the delay, plans for completion, and what actions the applicant has taken to correct the problem. The Code Official may set conditions regarding the time frame to rectify any violation as well as any other conditions such as, but not limited to, those prescribed by a court of law or the City Council. A fee as set forth in the Schedule of Municipal Fees.

W. Section 107.1, Notice to person responsible, is amended by deleting the subsection in its entirety and substituting the following:

Section 107.1, Notice to owner or person responsible. Whenever the Code Official determines that there has been a violation of this Chapter, or has reasonable grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Section 107.2 and Section 107.3 to the owner or person responsible for the violation as specified in this Chapter. Notices for condemnation procedures shall also comply with Section 108.3.

X. Section 107.2, Form, is amended by deleting the subsection in its entirety and substituting the following:

Section 107.2, Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

a. Be in writing;

b. Include a description of the real estate sufficient for identification;

c. Include a statement of the violation or violations and why the notice is being issued; and

d. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.

e. Inform the property owner of the right to appeal.

f. Include a statement of the right of the city to file a lien in accordance with Section 106.3.

g. Include a description of any actions taken by the code official in response to an emergency, including any additional corrective measures ordered by the code official, and notification that all costs, including any related municipal costs made necessary by the emergency will be borne by the owner.

Y. Section 107.3, Method of Service, is amended by deleting the subsection in its entirety and substituting the following:

Section 107.3, Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

a. Delivered personally to the owner or person responsible for the property; or

b. Sent by certified or first-class mail addressed to the last known address; or

c. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

d. In the event of an emergency, the code official shall make a reasonable attempt to contact the owner. A notice shall be prepared and provided to the owner on the next regular business day. Failure to serve notice shall not prevent any action taken pursuant to Section 109 of this code.

Z. Section 107.3.1, Method of service exception, is added as a new subsection to read as follows:

Section 107.3.1, Method of service exception. In no case shall the Code Official be required by this Section to provide a violation notice within a twelve (12) month period to any owner or person responsible previously provided notice pursuant to this Section or under any former Code

provision where the same Code violation is alleged by the Code Official to exist.

AA. Section 108.8 Vacant or abandoned and unsightly structures, is amended by adding the following subsection:

Section 108.8, Vacant or abandoned and unsightly structures. When in the opinion of the Code Official, the physical condition of an abandoned or vacant building is such that it is creating blight that may have a substantial impact on the property values of other adjacent buildings or structures or those in the vicinity of such abandoned or vacant building, the code official shall cause the provisions of this section to be enforced.

Section 108.8.1, Notice and Order. Upon making the determination of substantial adverse impact as set forth in Section 108.8 above, the code official shall cause to be sent to the record owner of such property a notice and order as provided in Section 107 demanding that said owner provide the city, in writing and within ten (10) days of receipt of such notice, a plan or proposal which such owner will cause to be undertaken to change the physical appearance of said building or structure so as to eliminate the aforementioned adverse impact on surrounding property values.

Section 108.8.2, Denial. If the code official determines that the plan or proposal submitted by the property owner of such abandoned or vacant building or structure is not likely to substantially reduce or eliminate the aforementioned adverse impact on surrounding property values, the code official shall, within ten (10) days of receipt of such plan or proposal, request appropriate changes in such plan or proposal.

Section 108.8.3, Enforcement. The code official shall have certain enforcement powers under this section. Such powers may be exercised upon any of the following events:

a. The owner of such unsightly abandoned or vacant building receives the notice described in Section 108.8.1, but fails to respond thereto;

b. The owner of an unsightly abandoned or vacant building presents an unacceptable plan or proposal to remedy the problems with the building and refuses, upon request, to amend the proposal so as to satisfy the code official; or

c. The owner of an unsightly abandoned or vacant building fails to comply with the terms and conditions of an accepted plan or proposal.

BB. Section 108.6, Abatement methods, is amended by deleting the subsection in its entirety and substituting a new subsection 108.6 to read as follows:

Section 108.8.4, Abatement. Upon the occurrence of any event set forth in Section 108.8.3 hereinabove, the code official may secure estimates from three (3) reputable licensed contractors skilled in performing such work. The code official shall select one contractor to perform such work. Upon making such selection, the code official shall send notice by certified and first class mail to the offending property owner, that the city intends to enter into an agreement with such contractor for the performance of the remedial work, and that the cost of such work, and any related municipal costs shall be filed as a lawful lien against the offending property. The notice described in this section shall inform the property owner that he, she, or it shall have ten (10) days in which to cause the remedial work to be commenced or the city shall enter into such contract.

Section 108.8.4.1, Commencement of work. If after service of such notice, and the passage of ten (10) days, the property owner fails to remedy the offending condition(s), the city shall enter into the aforementioned contract and shall instruct the relevant contractor to commence the appropriate work forthwith.

Section 108.8.4.2, Recovery of associated costs. Upon completion of the work described in Sections 108.8.4 and 108.8.4.1 hereinabove, the city shall cause the incurred cost of such work and all related municipal expenditures, to be filed as a lien against said property.

CC. Section 110.1 General, is amended as follows:

1. In line nine delete the words "board up" and insert the word "secure."
2. In line twelve delete the words "two years and insert the words "one year."
3. In line thirteen delete the words "board up" and insert the word "secure."
4. In line fourteen delete the words "Boarding the building up" and insert the words "Securing the building."

DD. Section 301.1, Scope, is amended by deleting the subsection in its entirety and substituting the following:

> Section 301.1, Scope. The provisions of this Chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property. This Chapter is not intended to supersede any requirements of any other statute, law, ordinance, rule or regulation with respect to historic structure or premises.

EE. Section 301.2, Responsibility, is amended by deleting the subsection in its entirety and substituting the following:

> Section 301.2, Responsibility. The owner, occupier or person responsible for the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Chapter. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition which do not comply with the requirements of this Chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping the premises which they occupy and control in a clean, sanitary and safe condition.

FF. Section 301.2.1, Caretaker, is added as a new subsection to read as follows:

> Section 301.2.1, Caretaker. In every multi-family dwelling residential subdivision with fifteen (15) or more separate dwelling units, there shall be a responsible person designated by the owner, residing on the premises, whose duties include maintaining the commonly used areas

and equipment of the premises; the owner shall also provide the code official with names, addresses, and telephone numbers of alternative responsible persons if the caretaker is not available to perform such maintenance. In every multi-family dwelling subdivision with less than fifteen (15) units, there shall be a responsible person designated by the owner, whose duties include maintaining the commonly used areas and equipment, whose name, address and telephone number shall be provided to the code official and the tenants.

GG. Section 301.4, Vacant land or lots, is added as a new subsection to read as follows:

Section 301.4, Vacant land or lots. Front lot line maintenance shall be performed by the owner or owner's representative of vacant land or lots to a minimum of twenty feet (20') from any abutting public right-of-way. Side and rear lot line maintenance shall be required to be performed by the owner or owner's representative to vacant land or lots to a minimum of ten feet (10') from the adjacent lot line when such land/lots are adjacent to an existing developed and improved lot. Where it is impractical to maintain the height of grass, weeds and/or other ground cover due to the density of trees, bushes and other vegetation, such vegetation shall either be trimmed or removed to the extent necessary to prevent encroachment upon by such vegetation the public right-of-way, sidewalks, and side and rear lot lines.

HH. Section 301.5, Other areas, is added as a new subsection to read as follows:

Section 301.5, Other areas. Property owners, landlords, tenants and their representatives shall be responsible for maintenance of the areas between the curb or the middle of an alley and their front, rear and side yards in compliance with this code.

II. Section 302.2, Grading and drainage, is amended by deleting the subsection in its entirety.

JJ. Section 302.3, Sidewalks, driveways and parking areas, is amended by deleting the subsection in its entirety and substituting the following:

Section 302.3, Sidewalks, driveways and parking areas. All sidewalks, driveways, service roads, access ways, and parking areas shall be paved

and maintained free from deterioration, potholes and other hazards. Parking areas assigned to more than one residential dwelling unit or commercial parking areas shall be maintained in accordance with any other provisions of the Delaware City Code or applicable law.

KK. Section 302.4. is amended by deleting the subsection in its entirety and substituting a new subsection 302.4, Vegetation, to read as follows:

Section 302.4, Vegetation. All property, grounds and premises shall be maintained in a condition that is reasonably cultivated. The following shall be prohibited:

a. Grasses, ground cover and weeds in excess of ten inches (10") in height.

b. All noxious, toxic or poisonous growths.

c. Trees that, in the opinion of the code official or a certified arborist, are: rotten, decaying, diseased, hazardous or dead.

d. Any growth of grass, weeds, shrubbery, trees or other vegetation that creates a hazard on an adjoining property.

e. Any plant growth overhanging a sidewalk less than eight feet (8') above the ground.

f. Any plant growth encroaching upon the public walkway and reducing the width below the minimum sidewalk width required by law shall be cut back and maintained.

LL. Section 302.6, Exhaust vents, is amended by deleting the subsection in its entirety.

MM. Section 302.7, Accessory structures, is amended by deleting the subsection in its entirety and substituting the following:

Section 302.7, Accessory structures. All accessory structures, shall be maintained structurally sound and in good repair.

NN. Section 302.7.1 Fencing is added as a new subsection to read as follows:

Section 302.7.1, Fencing. All fencing visible from public areas shall be kept in a condition consistent with the originally approved construction

method design and materials, or shall meet the following minimum requirements:

a. A fence shall be considered to be in disrepair when its vertical members (posts and intermediate boards) list, lean, or buckle to such an extent that a plumb line or level set at the top outside edge of the member would show more than a four inch deflection from true vertical measured at the base of the member.

b. Broken, missing, decayed, damaged, deteriorated, or unsightly fencing components/parts or boards must be repaired or replaced with similar materials and methods of construction. Patching or repairs to fences with incompatible materials or design are allowed on a temporary basis for no more than thirty (30) days, at which time, such fences shall be correctly fixed, repaired or removed according to this section.

c. Fences with graffiti or spot painting of multiple colors not part of a particular design scheme will be considered blight unless removed or painted one color for the entire area of the fence. Monotone colors are permissible for painted fencing.

d. Fencing in residential areas consisting of barbed wire or similar materials shall not be permitted and shall be considered blight.

e. All fencing must be in compliance with all other charters of the Delaware City Code.

OO. Section 302.8 is amended by deleting the subsection in its entirety and substituting a new subsection 302.8, Parking of Vehicles, to read as follows:

Section 302.8, Parking of Vehicles. Vehicles, including motor vehicles, trailers, carts, boats, campers, motor homes, and the like, shall be parked or stored in accordance with the following requirements:

a. Vehicle(s) shall be parked on a durable hard surface. Parking on lawn or grass areas shall be prohibited. For

the purposes of this section a durable hard surface shall mean stone, paving, concrete, paver blocks or other approved surface of a size greater than or equal to the size of the vehicle.

b. Vehicle(s) shall be registered as required by the State of Delaware Department of Motor Vehicles. Parking of unregistered vehicles or vehicles with registration that has expired for more than thirty (30) days shall be prohibited.

c. Vehicle(s) shall be maintained in good repair and in operating order. No vehicle shall be in a state of disassembly, disrepair or in the process of being stripped or dismantled.

d. Vehicle(s) shall be located as permitted in Chapter 46 Zoning.

e. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exceptions:

a. Vehicles parked or stored inside a building.

b. Vehicles or trailers approved and permitted as construction/temporary structures in accordance with Chapter 23 Building.

PP. Section 302.9, Defacement of property, is amended by deleting the subsection in its entirety and substituting the following:

Section 302.9, Defacement of Property.

(a) Definitions. The following words, terms, and phrases, when used in this section shall be the meanings ascribed to them in this subsection except where the context clearly indicates a different meaning:

1. Aerosol paint container means any aerosol container that is adapted or made for the purpose of applying paint or other substances capable of defacing property.
2. Broad-tipped marker means any felt-tip, indelible marker, or similar implement with a flat or angles writing surface that, at its broadest width, is greater than one-fourth of an inch, containing ink or other pigmented liquid that is not water soluble.
3. Graffiti means any unauthorized inscription, word, figure, painting, or other marking that is written, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement and which marking was not authorized in advance by the owners of the property.
4. Graffiti implement means an aerosol paint container, broad tipped marker, gum label, paint stick, or graffiti stick, etching equipment, or any other device capable of visible scarring or leaving a visible mark on any natural or man-made surface.
5. Minor means any person under the age of eighteen (18) years of age.
6. Paint stick or graffiti stick means any devices containing a solid form of paint, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth of an inch in width.

(b) Display and storage.

1. Every person who owns, conducts, operates, or manages a retail commercial establishment selling any type of graffiti implements shall store such implements in an area continuously observable through direct visual observation or surveillance equipment by employees of

the retail establishment during the regular course of business.

2. In the event that a commercial retail establishment is unable to store the graffiti implements it sells in an area as provided above, the establishment shall store such implements in an area not accessible to the public in the regular course of business without employee assistance.

3. A minor who is an employee of a person who, or an entity which is a vendor of graffiti implements may, in the course of his or her duties, possess such implements for purposes of lawful sale or transfer, but shall not purchase or obtain possession of the same for any other purpose.

4. No minor shall, at the time of purchase as specified in this section, knowingly furnish fraudulent evidence of majority.

(c) Required Sign. Every person who operates a retail commercial establishment selling any type of graffiti implement shall place a sign with a minimum height of 14 inches and a width of 12 inches, with lettering of at least one-half of one inch in height which is in clear public view at or near the display of such products and which states:

"WARNING: IT IS ILLEGAL TO SELL OR DISTRIBUTE AEROSOL PAINT, PAINT STICKS, OR BROAD-TIPPED MARKERS TO ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE OR FOR ANY PERSON UNDER THE AGE OF 18 YEARS OF AGE TO POSSESS OR ATTEMPT TO PURCHASE THE SAME. IF YOU ARE OVER 18 YEARS OF AGE IT IS ILLEGAL FOR YOU TO PURCHASE AEROSOL PAINT, PAINT STICKS, OR BROAD TIPPED MARKERS FOR A PERSON UNDER 18 YEARS OF AGE IF YOU ARE NOT SUCH

PERSON'S PARENT, GUARDIAN, SCHOOL TEACHER, OR ART OR CRAFT INSTRUCTOR."

(d) Prohibited Acts. A person is guilty of the act of causing graffiti when the person damages public or private real or personal property without the permission of the owner by knowingly, purposely, or recklessly drawing, painting, or making any significant mark or inscription thereon.

302.9.1, Distribution. It shall be unlawful for any person, other than a parent, legal guardian, school teacher, art or craft instructor, or employer to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any minor.

302.9.2, Property Owner Responsibility. It shall be the responsibility of the owner of the property damaged by graffiti to restore said surface to an approved state of maintenance and repair, including the removal of graffiti.

302.9.3, Notice. Notice shall be as specified in this chapter. Notice to remove graffiti shall specify that is it unlawful for the owner or anyone who has primary responsibility for control of the property, or for maintenance or repair of the property, to permit property that is defaced with graffiti to remain defaced beyond a period of 10 days after service of notice as specified in this chapter.

302.9.4, Exceptions to Property Owner Responsibility. The removal requirements specified herein shall not apply if the property owner, or responsible party, can demonstrate that he or she has an active program for the removal of graffiti and such removal has been scheduled as part of such program, in which case it shall be unlawful to permit such property to remain defaced with graffiti beyond a period of 20 days after service of notice as specified in this chapter.

302.9.5, Graffiti Removal Funding Assistance. Following removal of graffiti, a property owner may apply to the City for the reimbursement of some, or all, of the cost of graffiti removal from fines placed in a fund established by the City resulting from penalties assessed under the provisions of this code. Distribution of funding allocations to private property owners shall be based solely on funds available and on a first come, first served basis at the discretion of the City Manager. Receipts for the required work to remove the graffiti shall be submitted to the City Clerk for graffiti removal reimbursement. Requests for city funding assistance shall be submitted to the City Manager within 30 days of the completion of the removal; such removal shall be certified by the Department of Building Inspections and Code Enforcement to have been completed prior to such reimbursement.

302.9.6, Failure to Remove. A property owner who fails to remove the graffiti as specified herein shall be subject to the penalties set forth in this chapter.

302.9.7, City Removal. In the event graffiti is not removed or otherwise eliminated or abated by the date specified in the notice, the city, or a contractor hired by the city, shall enter upon the parcel and remove or abate such graffiti. If the city has conducted the removal or abatement of graffiti in accordance with this subsection, the actual cost of the removal, plus 50 percent in city overhead, plus accrued interest at the Delaware legal rate of interest per annum from the date of completion of the removal, if not paid by the owner, or not paid as a result of an order of a court of competent jurisdiction, shall be charged to the owner, or his or her agent, as a special tax bill by the city, and such charge shall be due and payable by the owner within six months of such tax bill. If the full amount due is not paid by the owner within the time required, the building official shall cause the special tax bill to be recorded in the municipal lien docket. The recordation of such special tax bill shall constitute a lien on the property and shall remain in full force and effect

for the amount due in principal and interest until final payment has been made.

302.9.8, Penalties.

(a) The penalty for a first offense of this chapter shall be a mandatory fine of not less than $200.00 or more than $500.00. For the second and subsequent offenses the fine shall be $500.00.

(b) Portions of fines may be used to pay for the cost of public and private property graffiti removal. Distributions of fines for private property graffiti removal, if available, shall be administered by the City Clerk, as approved by the City Manager, as specified in this Chapter.

(c) Community service. In lieu of, or as part of, the penalties specified in this section, an adult may be required to perform community service as prescribed by the court based on the following minimum requirements:

1. The individual shall perform a minimum of 30 hours of community service.
2. The entire period of community service shall be assigned by and performed under the supervision of a representative of the police department designated by the Delaware City Police Department.
3. Reasonable effort shall be made to assign the individual to a type of community service that is reasonably expected to have the most rehabilitative effect on such person, including community service that involves graffiti removal.

QQ. Section 302.10, Storage areas, is added as a new subsection to read as follows:

Section 302.10, Storage areas. All approved salvage yards and open storage areas shall be completely obscured from all surrounding property by a solid screen not less than six feet (6') in height and in accordance with all applicable sections of the Delaware City Code. Storage of debris, junk, or construction material which are not associated with an approved use or permitted construction at that site shall be prohibited.

RR. Section 302.11, Prohibited furniture, is added as a new section and Section 302.11, Removal of abandoned or prohibited furniture, is added as a new subsection, to read as follows:

Section 302.11, Prohibited furniture. Interior type furniture that would be adversely affected by the elements and/or susceptible to infestation by insects, rodents, or other vermin is prohibited from being placed or stored outside a structure. Such prohibited furniture shall include, but shall not be limited to, upholstered couches and chairs, other fabric covered articles and articles not designed or intended for outdoor use.

Section 302.11.1, Removal of abandoned or prohibited furniture. When the code official determines that prohibited or abandoned furniture is located in an exterior property area, the code official shall notify the property owner or other responsible person in accordance with Sections 107 or 106.4.1 of this code. If the furniture is not removed within the time set forth by such notice, the city may cause such furniture to be removed, and the owner shall be billed for the cost of such removal in accordance with the provisions of this chapter.

SS. Section PM 302.12, Responsibility to keep shrubs and trees trimmed, is added as a new subsection to read as follows:

Section 302.12, Responsibility to keep shrubs and trees trimmed. In any residential zoning district, it shall be the duty of the owner or person responsible of a property to keep shrubbery trimmed so that it does not encroach upon or extend beyond the line of any sidewalk and to trim trees so that no branch extends below a height of a seven (7) feet above the width of any sidewalk.

TT. Section 302.14, Prohibited animals in certain residential areas is added as a new subsection to read as follows:

> Section 302.14, Prohibited animals in certain residential areas. It shall be unlawful for any owner, tenant or other person in control of a property to raise, breed, keep, shelter or harbor any cattle, sheep, goats, pigs, ducks, geese, waterfowl, guinea hens, chickens, turkeys, donkeys, quail, doves, llamas, raccoons, muskrats, non-domesticated mammals, game foul, pigeons, pheasants, peacocks, foxes, minks, exotic animals, wild animals, game animals and other like animals on a parcel of land which is less than one (1) acre in total area and located in any residentially zoned district.
>
> Section 302.14.1, Exception: Educational programs. This Section shall not apply to the keeping, sheltering or harboring of animals in connection with bona fide educational programs run or overseen by a public or private elementary, middle or secondary school or college or university or the Delaware Cooperative Extension Education Program, the 4-H or the Newark Pigeon Club, Wilmington Homing Club or Delmarva Pigeon Club. Participation in the educational programs or pigeon clubs listed shall constitute an affirmative defense.

UU. Section PM 302.15, Boats, is added as a new subsection to read as follows:

> Section PM 302.15, Boats. The storage of boats other than canoes, kayaks, and row boats on residential property are subject to the provisions of this Section.
>
> > Section 302.15.1. All boats shall be stored upon a registered trailer which is suitable to transport the boat. A commercially manufactured frame, designed for the storing of sailboats, is also appropriate. All trailers and frames shall be stored upon a hardened surface constructed of material, treated or covered with brick, block, pavers, stone, concrete, asphalt or crushed

decorative rock. The surface must fully accommodate the size of the vehicle. The trailer shall not extend into the right-of-way.

VV. Section 302.16, Portable temporary storage units, is added as a new subsection to read as follows:

Section 302.16, Portable temporary storage units. In any residentially zoned district, the placement of a portable temporary storage unit for non-disposable items is allowed for temporary use by the occupant of the dwelling for thirty (30) days or the time period for which there is an active building permit open on the property. Such portable storage units are subject to the following limitations.

Section 302.16.1. The temporary storage units shall be set back a minimum of three (3) feet from any property line; and

Section 302.16.2. The temporary storage units must be placed on either a hard concrete or asphalt surface and may displace one or more off-street parking spaces, provided there is adequate on-street parking;

Section 302.16.2.1, Exception. In the event that it is unfeasible to place the temporary storage units on either a hard concrete or asphalt surface as required in Section 302.16.2, the temporary storage unit may be placed anywhere on the property.

Section 302.16.3. The location of the temporary storage units shall not affect the health, safety, and/or welfare of the neighborhood including, but not limited to, blocking access to a fire hydrant and obstructing the view of street intersections.

WW. Section 303.1. Swimming pools, is amended by deleting the subsection in its entirety and substituting the following:

Section 303.1, Swimming pools. Swimming pools whether aboveground or in ground shall be maintained in a clean and sanitary condition, and in good repair. Any pool that is not drained for winterization shall be covered. For the purposes of this section sanitary shall mean maintained

to prevent growth of insect larvae (including but not limited to mosquito larva) and algae or other similar plant life in addition to cleanliness.

Section 303.1.1. Upon discovery of a violation of this Section, the City of Delaware City may immediately institute legal proceedings. The Code Official may remedy the violation and seek indemnification of expenses incurred from the violator. Corrective action may include, but shall not be limited to, draining and cleaning the pool, chemically treating the pool to control the growth of bacteria and algae, and/or covering the pool. Corrective action for any pool that is in violation of this Section and that has been unused for a period of two (2) years may include filling of such pool with clean fill or the dismantling and removal of such pool, whichever is deemed appropriate by the Code Official.

Section 303.1.2. Any expense incurred by the Code Official under this Section shall be paid by the owner or possessor of the property within ten (10) days after notice thereof by registered certified mail. Upon failure to reimburse the City of Delaware City within the time period specified, the Code Official may:

a. Call or collect on any bond or insurance established for this purpose;

b. Place a lien on any property within the City of Delaware City held by the person as permitted by State law; or

c. Institute a civil action for the recovery of such expense, together and with any penalty and/or interest, against the person, and the City of Delaware City shall be awarded reasonable attorney fees. This Section shall not be construed to limit any other actions or remedies at law or equity.

XX. Section 303.2. Enclosures, is amended by deleting the subsection in its entirety and substituting the following:

Section 303.2, Enclosures. Swimming pools, hot tubs and spas, more than twenty-four (24) inches in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches in height. Gates and doors in such barriers shall be self-closing and self- latching. Where the

self-latching device is less than fifty-four (54) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Section 303.2.1, Exception. This Section shall not apply to hot tubs and spas when secured by an approved safety cover.

YY. Section 304.13 Window, skylight and door frames, is hereby amended to add the following: "Temporary boarding of windows, skylights doors and frames, not to exceed fifteen (15) days, shall be permitted."

ZZ. Section 304.13.2, Openable windows, is amended by deleting the subsection in its entirety and substituting the following:

Section 304.13.2, Openable windows. Every window other than a fixed window, shall be easily openable and capable of being held in position by window hardware and shall be equipped with a functioning locking device.

AAA. Section 304.14, Insect screens, is amended by deleting the subsection in its entirety and substituting the following:

Section 304.14, Insect screens. During the period from April 15th to October 15th, every window required for ventilation of habitable rooms shall be supplied with tightly fitting screens of not less than (sixteen) 16 mesh per inch.

BBB. Section 304.17, Guards for basement windows, is amended by deleting the subsection in its entirety and substituting the following:

Section 304.17, Guards for basement windows. Every basement window that is openable shall be supplied with rodent or pest shields, storm windows or other approved protection against the entry of rodents and other pests.

CCC. Section 304.18, Building security, is amended by deleting the subsection in its entirety.

DDD. Section 304.19, Boarding up prohibited is added as a new section to read as follows:

> 304.19, Boarding up prohibited. All windows, doors, or other openings required for light, ventilation, display, ingress or egress shall be maintained and not be boarded up by the installation of plywood, particleboard, tin or other like materials. Exceptions may be made for significant weather events, repair, and replacement, where a building permit has been issued for the property, or where the code official has approved or ordered such action in writing. Boarding materials shall be removed within ten (10) days of notice from the Code Official.

EEE. Section 305.1.1, Exception, is added as a new exception to read as follows:

> Section 305.1.1, Exception. Equipment in a vacant structure, if not in good repair, structurally sound and in a sanitary condition, must be secured in such a manner so as not to be hazardous to the health, safety, or welfare of any occupants or to the public.

FFF. Section 308.1, Accumulation of rubbish or garbage, is amended by deleting the subsection in its entirety and substituting the following:

> Section 308.1, Accumulation. No owner occupant, possessor or person responsible for a developed or undeveloped parcel of land shall permit rubbish, garbage, trash, refuse, or other waste material to be placed or accumulated upon the interior and/or exterior of such parcel or the right-of-way abutting such parcel.

GGG. Section 308.2, Disposal of rubbish, is amended by deleting the subsection in its entirety and substituting the following:

> Section 307.2, Disposal of rubbish. Every owner or person responsible for a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

HHH. Section 308.3, Disposal of garbage, is amended by adding the following new subsection to read as follows:

> Section 308.3.3, Dumpsters. In any residentially zoned district, the placement of dumpsters for disposable items is allowed for temporary

use by the occupant of the dwelling for thirty (30) days or the time period for which there is an active building permit open on the property. Such dumpster(s) are subject to the following limitations:

Section 308.3.3.1. The dumpster(s) shall be set back a minimum of three (3) feet from any property line; and

Section 308.3.3.2, The dumpster(s) must be placed on a hard concrete or asphalt surface and may displace one or more off-street parking spaces, provided there is adequate on-street parking; and

Section 308.3.3.3, Exception. In the event that it is unfeasible to place the dumpster on either a hard concrete or asphalt surface as required in Section 308.3.2, the dumpster may be placed anywhere on the property.

Section 308.3.3.4. The location of the dumpster(s) shall not affect the health, safety, and/or welfare of the neighborhood including, but not limited to, blocking access to a fire hydrant and obstructing the view of street intersections.

III. Section 308.4, Commercial business, is added as a new subsection to read as follows:

Section 308.4, Commercial business. Every owner, operator or occupant of a commercial business producing garbage or rubbish shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. It shall be unlawful for any person to cause or allow unsightly litter or potentially dangerous materials to remain on any property under his or her control.

JJJ. Section 308.5, Food Establishments, is added as a new subsection to read as follows:

Section 308.5, Food Establishments. Every owner, operator or occupant of a Food Establishment (as defined by the North American Industrial

> Classification System or "NAICS" Code 722, as published by the Federal government) on which garbage is produced, accumulated or generated shall cause such waste to be removed from the premises no less frequently than once per week.

KKK. Section 309.1, Infestation, is amended by deleting the subsection in its entirety and substituting the following:

> Section 309.1, Infestation. All structures and premises shall be kept free from insect and rodent infestation. All structures and premises in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

LLL. Section 309.2, Owner, is amended by deleting the subsection in its entirety and substituting the following:

> Section 309.2, Owner. The owner of any structure or premises shall be responsible for extermination within the structure prior to renting or leasing the structure or premises.

MMM. Section 309.4, Multiple occupancy, is amended by deleting the subsection in its entirety and substituting the following:

> Section 309.4, Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination of the interior areas of the structure and exterior property.

NNN. Section 309.5, Occupant, is amended by deleting the subsection in its entirety and substituting the following:

> Section 309.5, Owner and Occupant. The occupant of any structure or premises shall be responsible for the continued rodent and pest-free condition of the structure or premises. Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

OOO. Section 404.4.6 Bedroom area is added as a new subsection to read as follows:

Section 404.4., 6 Bedroom area. Every bedroom shall contain at least seventy square feet (70 sq. ft.) for the first occupant and at least fifty square feet (50 sq. ft.) for each additional occupant.

PPP. Section 404.5, Overcrowding, is amended by deleting the subsection in its entirety and substituting the following:

Section 404.5, Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of table 404.5 or by the requirements and restrictions of Chapter 46, Zoning.

TABLE 404.5

Space	Minimum area in square feet		
	1—2 occupants	3—5 occupants	6 or more occupants
Living room	No requirements	120	150
Dining room	No requirements	80	100
Kitchen	50	50	60
Bedrooms	Shall comply with section 404.4.6		

QQQ. Section 504.3, Plumbing systems hazards, is amended by deleting the subsection in its entirety and substituting the following:

Section 504.3, Plumbing system hazards. All plumbing systems in any structure shall be maintained so as not to constitute a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, improper installation, deterioration or damage or for similar reasons.

RRR. Section 506.3, is amended by deleting the words "Where it has been determined that a grease interceptor is not being maintained and serviced as intended," and insert the phrase "Where a grease interceptor is installed".

SSS. Section 506.3.1, Penalty, is added as a new subsection to read as follows:

Section 506.3.1, Penalty. Any person, firm, corporation, partnership, or other commercial entity, or representative thereof, who fails to comply with Section 506.3 of this chapter, and is issued a notice of violation more than one time in any calendar year, shall be guilty of a violation,

and upon conviction, shall be punished by a fine of not less than five-hundred dollars ($500.00) nor more than one-thousand dollars ($1000.00), or imprisonment for not more than thirty (30) days, or both.

TTT. Section 601.3, Carbon Monoxide, is added as new section to read as follows:

Section 601.3, Carbon Monoxide (CO) alarms. A carbon monoxide alarm shall be installed in the immediate vicinity of all sleeping rooms of each dwelling unit with fuel burning appliances or equipment or with attached garages or with attached storage/utility rooms which store fuel burning equipment.

601.3.1, Alarm requirements. Single station carbon monoxide alarms which comply with UL 2304 shall be installed in accordance with the requirements of this code and in accordance with the manufacturers' installation instructions.

UUU. Section 602.3, Heat supply, is amended by deleting the subsection in its entirety and substituting the following:

Section 602.3, Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guestrooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from September 15th to May 15th to maintain a temperature of not less than sixty-eight degree Fahrenheit (68°F) (twenty degrees Celsius (20°C)) in all habitable rooms, bathrooms, and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section.

Section 602.3.1, Exception. In areas where the average monthly temperature is above is thirty degrees Fahrenheit (30°F) (minus one degree Celsius (-1°C)), a minimum temperature of sixty-five degree Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) shall be maintained.

VVV. Section 602.4, Occupiable work spaces, is amended by deleting the subsection in its entirety and substituting the following:

Section 602.4, Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to May 15th to maintain a temperature of not less than sixty-five degree Fahrenheit (65°F) (eighteen degrees Celsius (18°C)) during the period the spaces are occupied.

WWW. Section 604.1, Facilities required, is amended by adding the following to the end of this subsection: "The required electrical system supplied for all building and dwelling units shall be used specifically for the building or dwelling unit it serves."

XXX. Section 604.3, Electrical system hazards, is amended by deleting the subsection in its entirety and substituting the following:

Section 604.3, Electrical system hazards. Every electrical system in a structure shall be maintained so as to not constitute a hazard to the occupants or the structure by reason of inadequate service, improper wiring or installation, deterioration or damage, or for similar reasons.

YYY. Section 702.5, Number of exits is added as a new subsection to read as follows:

Section 702.5, Number of exits. In nonresidential buildings, every story more than six stories above grade shall be provided with two independent exits. In residential buildings, every story exceeding two stories above grade shall be provided with two independent exits. In stories where more than one exit is required, all occupants shall have access to no two independent exits. Every occupied story which is both totally below grade and greater than two thousand (2,000) square feet, shall be provided with two independent exits.

Exception: A single exit is permitted if any of the following apply:

1. Where the building is equipped throughout with an automatic sprinkler system and an automatic fire detection system with smoke detectors located in all corridors, lobbies, and common areas.
2. Where the building is equipped throughout with an automatic fire detection system and the exit is an approved smoke proof enclosure or pressurized stairway.

   Where an existing fire escape conforming to the building code is provided in addition to the single exit.

3. Owner occupied buildings of Use Group R-3.
4. Owner occupied single family dwellings that do not have sleeping rooms on the third floor or below grade.

ZZZ. Chapter 8, Referenced Standards, is amended by deleting all references to the International Zoning Code.