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History: Unless otherwise specified the contents of the Chapter were from Ordinance 1000¹, titled “Delaware City Health and Sanitation Code” (adopted January 12, 1976). Section 21-10 was Ordinance 1035 (adopted November 29, 1978) and Article VII was Ordinance 1100 (adopted January 12, 1976).

¹ As amended by ordinance 1000A.

Article I In General**Section 21-1 Title and Purpose**

The title of this Chapter shall be “The Delaware City Health and Sanitation” and may be cited as the “Health and Sanitation.” The Purpose of this Chapter is to provide for the general regulation of all matters, not otherwise provided for by law, pertaining to the public health and sanitary conditions of Delaware City; the abatement of nuisances injurious to the public health or dangerous to the inhabitants of Delaware City; and the prevention of the introduction and spread of infections and/or contagious diseases.

Section 21-2 Definitions

For the purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

- a.) Ashes and unburnable rubbish or waste: All ashes and other material incidental to housekeeping, and rejected miscellaneous matter, which cannot be readily burned.
- b.) Board: The Board of Health of the City of Delaware City, specifically appointed as such and to whom are delegated certain powers and duties under the Charter and Ordinances of Delaware City.
- c.) City: City of Delaware City.
- d.) Employ: The word “employ” shall mean and include retain, hire or engage.
- e.) Exterminator; insecticide: The term “exterminator” or “insecticide” as used herein shall mean and include any substance, not a fumigant, under whatever name known, used for the destruction or control of insects, vermin, rodents or other pests.
- f.) Fumigant: Any substance which by itself or in combination with any other substance emits or liberates a gas, fumes or vapors and which gas, fumes or vapors, when liberated and used for the destruction or control of insects, vermin or rodents or other pests are lethal, poisonous, noxious, or dangerous to human life.
- g.) Garbage: All kitchen and table wastes of an animal or vegetable nature, swill, offal, vegetables, fruits, meats, fish bones, fat, carrion, market refuse, dead cats and dogs, all petrifiable matter, both solid and liquid, animal and vegetable, which may result from the preparation of meat, fish, fowl and vegetables of any character, or which may be caused by the decay of foodstuffs or by handling, storing or dealing in the same. “Garbage” shall also include paper products which have become wet or saturated with any of the above items as a result of wrapping, storing or serving foodstuffs.

h.) Inspector: An authorized representative of the Delaware City Board of Health.

i.) Owner; owning: The word "owner" shall mean and include agent, manager, proprietor, lessee, person, copartnership, company, association, firm or corporation, prospective owner or agent, business or establishment. The word "owning" shall mean and include controlling, leasing, acting as agent for, conducting, operating, managing, maintaining or occupying.

j.) Permit: Permission in writing of the Board of Health, issued according to the provisions of this Chapter and/or the regulations of the Board of Health.

k.) Person: Any individual, firm, association or corporation.

l.) Refuse: Waste material, other than rubbish, ashes or garbage, that attends use or decay and accumulation from the occupancy of buildings or premises.

m.) Rubbish: Solid waste material accumulating or resulting from the use or occupancy of buildings or premises, such as paper, straw, excelsior, rags, old clothes, old shoes and other material of similar character.

n.) Weeds: Any wild growth of grass, brush, bushes, vines, saplings, etc., which have grown to a height or which have been allowed to grow in any manner detrimental to the health or safety of the public or in such manner as to create a nuisance.

Sections 21-3 to 21-5 Reserved

Article II Enforcement, Liability and Penalties

Section 21-6 Right of Entry of Board

The Board of Health may without fee or hindrance enter, examine and inspect all vessels, premises, grounds, structures, buildings and every part thereof and all underground passages of every sort in the Town for compliance with the provisions of law enforced by the Board and its rules and regulations, and may make plans, drawings, and descriptions thereof according to the rules of the Board. The owner or his agent or representative and the lessee or occupant of any such premises, grounds, structures, buildings and every part thereof and all underground passages of every sort in the City and every person having the care and management thereof, shall at all times, when required by the Board, give them free access thereto; and refusal to do so shall be grounds for the issuance of a complaint before a Justice of the Peace under the Law of the State of Delaware. (10 Del.C. §311.)

Section 21-7 No Personal Liability

No member of the Board may be sued or held liable for any act done or omitted in good faith and with ordinary discretion on behalf of or under the Board of pursuant to statutes, ordinances, rules and regulations under which the Board has authority to act.

Section 21-8 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 21-9 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 21-10 Power of the City Manager

Whenever the Delaware City Health and Sanitation refers to action taken by, or an order of the Mayor and Council upon recommendation of the Board of Health, said action may be taken or said order may be given by the City Manager of the City of Delaware City upon recommendation of the Board of Health and in accordance with the provisions of this Chapter.

Sections 21-11 to 21-15 Reserved

Article III Protection of Water Supply

Section 21-16 Pollution of Water

It shall be unlawful for any person to pollute or render unwholesome or impure the water of any drinking fountain, hydrant, or any source or place of storage of the water supply of the City or of any of its inhabitants.

Section 21-17 Cross Connections with Public Water Supply

- a.) No physical connection between the distribution system of a public potable water supply and that of any other water supply shall be permitted, unless such other water supply is of sage sanitary quality and the interconnection of both supplies is approved by the Board.
- b.) The provisions governing cross connections and dual water supplies shall be those approved by the Board.

Section 21-18 Permit to Use Well

It shall be unlawful for any person to maintain or use any well for the purpose of drawing therefrom water intended for drinking purposes without first obtaining a permit from the Board.

Section 21-19 Polluted Wells

Whenever it shall appear to the satisfaction of the Board that any well, the water of which is used for domestic purposes, has become polluted, has been rendered in any way unsafe for domestic or drinking purposes or has become otherwise detrimental to health, the Board shall give to the owner of such well written notice to close and fill it within a time to be specified in such notice. If such notice is not complied with, the Board shall cause such well to be closed and filled up at the cost of the owner.

Section 21-20 Drinking Fountains

It shall be unlawful to maintain any drinking fountain in the City that in the judgment of the Board is unsanitary.

Section 21-21 to 21-25 Reserved

Article IV Sanitation

Section 21-26 Construction and Use of Excreta Disposal Facilities

a.) It shall be unlawful for any person to make, build, dig, construct or maintain any privy, vault, latrine, septic tank, cesspool, chemical toilet or water closet that is not connected with the City sewer system without first obtaining a permit from the Board.

b.) The construction, erection and maintenance of any privy, vault, latrine, septic tank, cesspool, chemical toilet or water closet shall be in accordance with the rules and regulations set forth by the Board.

Section 21-27 Sewer Connections

Whenever the Board of Health shall deem it necessary for the protection of the public health or improvement of sanitary conditions, it may require any house, building or structure of any kind that is not connected with the City sewer system to be so connected, if there is a street sewer immediately accessible.

Section 21-28 Removal and Transportation of Excreta

The cleaning, emptying and removing of excreta or other contents of a privy, vault, latrine, septic tank, chemical toilet or cesspool shall be done in an inoffensive manner; and any individual, firm or corporation having begun any such work shall, without interruption or delay, finish the same and shall in every instance leave the place in a clean condition. Before beginning such work, a permit must be obtained from the Board of Health, and the work shall be done in accordance with the rules and regulations of the Board of Health.

Sections 21-29 to 21-35 Reserved

Article V Mosquito Control

Section 21-36 Certain Accumulations of Water Prohibited

It shall be unlawful within the City for any person to have, keep or maintain, or cause or permit, any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated to prevent such breeding. Also, in accordance with the laws of the State, the jurisdiction of the Board of Health under this Section shall include the corporate limits of the City and one mile beyond.

Section 21-37 Method of Treatment of Collections of Water

The method of treatment of collections of water to prevent mosquito breeding shall be in accordance with the rules and regulations of the Board of Health.

Section 21-38 Acceptance of Aid From Other Agencies, Etc

Nothing contained in Sections 21-36 and 21-37 shall be deemed to prohibit the use by the Board of Health of the services and facilities of any commission, bureau or agency of the State or the United States, or of any private agency, the duties of which involve mosquito prevention or extermination and any agent or representative of any such state or federal commission, bureau or agency, or private agency, who shall perform any act at the instance or request of the Board of Health, connected with or incident to the proper enforcement of the provisions of this Chapter shall be deemed an accredited agent or representative of the Board of Health.

Sections 21-39 to 21-40 Reserved

Article VI Miscellaneous Provisions

Section 21-41 Accumulation of Weeds Prohibited

a.) No person shall permit weeds or grasses to grow or to accumulate upon land or premises so as to create a nuisance detrimental to health or to the safety of property or to constitute a menace from fire thereon or to adjoining property.

b.) Whenever grasses or weeds on lands or premises exceed fifteen inches (15") in vertical height, the Mayor and Council upon recommendation of the Board may order the grasses or weeds to be cut. If any such order of the Mayor and Council, issued under the Provisions of this Section, is not complied with within ten (10) days after service thereof by letter to the owner or owners or by posting such notice upon lands or premises if address of owner is not known, then such order may be executed by said Mayor and Council through its 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 any other liens on realty in Delaware City. Service on one owner of property held jointly with others shall be sufficient notice.

Section 21-42 Regulation of Food Establishments, Etc

The Board of Health shall provide rules and regulations for the sanitary control of food establishments, food handlers and public eating places, including the production, distribution and sale of milk, dairy products, and food and drink; and the Board shall have power to adopt rules and regulations to enforce such control.

Section 21-43 Offensive Odors, Gases, Fumes and Smoke

No person shall maintain any rendering or reduction plant or any plant engaged in the manufacture of materials or any condition which creates obnoxious or offensive odors, fumes, gases or smoke, except in accordance with rules and regulations of the Board of Health.

The Board of Health shall have the power to determine, by direct inspection, the source or sources of any condition which creates obnoxious or offensive odors, fumes, gases, or smoke and that such power shall extend to an area outside the City limits for a distance of three (3) miles.

Section 21-44 Fumigation and Use of Insecticides

No person shall use in any building, vessel or other place in the City a fumigant, exterminator or insecticide for the destruction or control of insects, vermin, rodents or other pests, or engage in any business of such fumigation or extermination without a permit issued therefore by the Board of Health, or otherwise than in accordance with the terms of such permit and the regulations of the Board of Health. This Section, however, shall not apply to any person using an exterminator approved by the State or Federal government or any person who uses an insecticide, approved by the State or Federal government, in his own home, building or place of business.

Section 21-45 Operation of Swimming Pools and Bathing Places

All artificial swimming pools and public bathing places in the City shall be operated according to the rules and regulations of the Board of Health.

Sections 21-46 to 21-50 Reserved

Article VII Board of Health

Section 21-51 Creation of Board of Health

For the purpose of enforcing the provisions of the Delaware City Health and Sanitation Chapter there is hereby created a Board of Health consisting of five (5) members, all of whom shall be appointed by the Mayor and Council of Delaware City.

Section 21-52 Qualifications of the Board

One member shall be the Councilperson of Delaware City in charge of the Board of Health; one member should be a doctor licensed in the State of Delaware, if available; and all members shall be citizens of the City of Delaware City.

Section 21-53 President of the Board of Health

The President of the Board of Health shall be elected by a majority off the members of the Board; but each member, including the President, shall serve at the pleasure of the Mayor and Council.

Section 21-54 Meetings

The Board of Health shall meet at least once every two months and shall submit minutes of that meeting to the Mayor and Council at the next regular Council meeting following the Board of Health meeting.

Section 21-55 Powers and Duties of the President

a.) The President shall have all the administrative powers and duties of the Board such as are not inconsistent with the specific powers as outlined in the Charter or as heretofor or hereafter indicated.

b.) The President shall appoint all the members of the administrative staff, with the exception of the Secretary, with the approval of the Board.

c.) The President shall prescribe the duties of the personnel on the administrative staff, with the approval of the Board.

Section 21-56 Terms of Office of the Board

a.) All members shall be appointed for terms of two (2) years. Nothing in this Article shall be construed as affecting the present tenure of office of any member of the Board of Health.

b.) Should a member of the Board resign, die or become otherwise incapable of performing his duties during his term of office, then the Mayor and Council shall appoint a new member to serve the remainder of the term.

Section 21-57 Removal of a Member of the Board

a.) A member of the Board may be removed by the Council on a vote of a majority of the Council on proof of official misconduct, of negligence in official duties, or of mental or physical inability to perform his duties; but before removal such member of the Board shall be furnished a copy of the charges and shall be entitled to a hearing before Council.

b.) The Mayor and Council shall appoint a new member of the Board to serve the remainder of the term of any member removed for cause.

Section 21-58 Powers and Duties of the Board of Health

a.) The Board is authorized and empowered to make rules and regulations for the conduct of its business.

b.) The Board shall have the power to adopt, promulgate, amend and repeal rules and regulations consistent with law and with the consent of the Council of the City of Delaware City for the following purposes:

1.) To prevent and control all diseases that are dangerous to the public health;

2.) To prevent and control nuisances which are or may be detrimental to the public health;

3.) To oversee the sanitary protection of all water supplies which are furnished to and used by the public;

4.) To oversee the proper disposal of household wastes, garbage and refuse;

5.) To inspect and control the sanitation of public eating places, trailer parks, campgrounds and service stations;

6.) To inspect and control proper sanitation, ventilation and hygiene in schools and other public buildings;

7.) To inspect and provide for the sanitary control of public swimming and bathing places;

8.) To provide for the safe and sanitary control of fumigation equipment, fumigants and insecticides;

9.) To provide for the sanitary production, distribution and sale of milk and dairy products, other foodstuffs and drink; and

10.) To protect and promote the public health generally and to enforce all of the laws pertaining to the public health.

c.) The Board shall have the specific power to and is responsible for the designation and declaration of any and all specific matters or things which constitute a nuisance and are detrimental to the public health; such designation and declaration shall be made in writing and addressed to the Mayor and Council of Delaware City.

d.) The Board shall have the power to require reports and information from any school, hospital or other institution, or from any physician, undertaker or other individual regarding conditions of health and safety.

e.) The Board shall have the power to act or perform such other duties as are or may be specified in other sections of this Chapter.

Section 21-59 Secretary of the Board of Health

The Board of Health shall elect, by a majority vote, a Secretary who shall keep the minutes of the meetings and shall perform all duties assigned by the Board of Health. The Secretary shall receive compensation as determined by the Board of Health with the approval of the Mayor and Council.

Sections 21-60 to 21-65 Reserved