

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY

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

ORDINANCE NO. 17 – 1218-01

**ORDINANCE TO AMEND CHAPTER 46, SECTION 46-28
OF THE CITY CODE RELATING TO SUBDIVISION AMENITIES IN THE
HISTORIC PRESERVATION AND REDEVELOPMENT ("HPR") DISTRICT**

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 of Delaware City desire to amend Chapter 46, Section 46-28 to add a new subsection (d) to address the ownership of common areas and open space in the Historic Preservation and Redevelopment ("HPR") District.

WHEREAS, The Mayor and City Council believe these amendments are in the best interest of the City;

WHEREAS, under Article V, Section 5-02(B) of the Charter, the proposed amendments were introduced at a regular meeting, duly read in full or in abstract, and prominently posted for ten (10) days in The City of Delaware City.

WHEREAS, under Section 46-139 of the Code, notices of the public hearing with respect to the proposed amendments were posted at Delaware City Town Hall and other areas throughout the town, and published once each week for two (2) consecutive calendar weeks in a newspaper of general circulation in the City of Delaware City and published not less than fifteen (15) days prior to the date of such public hearing.

NOW, THEREFORE, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Amend Section 46-28 of the Delaware City Code, by adding a new subsection (d) which shall read as follows:

(d) Subdivision Amenities

Notwithstanding the requirements of any other law, common areas not associated with a condominiums in the HPR district, such as roads, active open space, passive open space, recreational amenities, and parks as depicted and outlined on any subdivision or other land development plan (collectively “Subdivision Amenities”) may be owned, maintained and operated by the State of Delaware or any of its agencies, the City of Delaware City, or any entity that is a public instrumentality of the State exercising essential governmental functions. Subdivision Amenities shall be governed by such requirements as established by ordinance and/or such other requirements as the owner of the Subdivision Amenities shall establish by rule, regulation, guidelines, or through recorded restrictions. If the owner of the Subdivision Amenities is the State of Delaware or any of its agencies, the City, or any entity that is a public instrumentality of the State exercising essential governmental functions, such owner may charge proportional assessments, common area maintenance fees, or other fees to subdivision property owners for the maintenance and upkeep of Subdivision Amenities and other similar amenities.

Section 2. **Inconsistent Ordinances and Resolutions Repealed.** All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in 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.

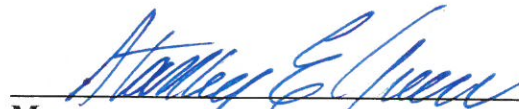
Section 4. **Effective Date.** This Ordinance shall become effective immediately upon its adoption by City Council.

(Signature Page Follows)


ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 201_.


ATTEST:


City Secretary



Mayor


APPROVED AS TO FORM:



City Solicitor


Council Member


Council Member


Council Member


Council Member


Council Member

First Reading on 12-18-18,

Second Reading, Public Hearing, and Final Passage on 1-22-18.