

“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 19-0916-05

AN ORDINANCE AMEND CHAPTER 3 OF THE DELAWARE CITY CODE RELATING TO TAXATION TO ENACT (A) A CITY PROPERTY TAX ABATEMENT FOR NEW RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENT ON PROPERTY LOCATED WITHIN THE DOWNTOWN DEVELOPMENT DISTRICT AND (B) A CITY REALTY TRANSFER TAX WAIVER FOR CERTAIN RENTAL PROPERTIES

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, under the Downtown Development Districts Act, 22 *Del.C.* §§ 1901 *et seq.* (the “Act”), the State of Delaware may designate districts within Delaware’s cities, towns, and unincorporated areas that will qualify for significant development incentives and other State benefits; and

WHEREAS, a portion of the City of Delaware City (the “City”) was designated as a Downtown Development District (“DDD”) on August 18, 2019; and

WHEREAS, as a condition of said designation, the City committed to enacting various “local incentives” to help achieve the purposes set forth in the Act; and

WHEREAS, one of the local incentives included in the City’s application to receive the DDD designation involved abating property taxes for new residential and/or commercial development on properties within the DDD;

WHEREAS, the Mayor and City Council of Delaware City desire to amend Chapter 3 of the Delaware City Code to implement a property tax abatement program for new residential and/or commercial development properties within the DDD pursuant to the terms and conditions as set forth herein.

WHEREAS, the Mayor and City Council of Delaware City also desire to amend Chapter 3 of the Delaware City Code to implement a program allowing for the waiver of the City’s realty

transfer tax for any residential rental property within the DDD that is conveyed to a property owner that will reside in the premises for a period of at least five (5) years.

NOW, THEREFORE, the Mayor and City Council believe this amendment is in the best interest of the City and necessary to enhance the health, safety, and welfare of the City of Delaware City, to promote new development and to encourage owner occupied residences, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Amendment. Chapter 3 of the Delaware City Code entitled “Taxation” is hereby amended to add a new Article III which shall be entitled and provide as follows:

Article III. Downtown Development District Tax Abatement and Realty Transfer Tax Waiver.

3-32 Tax Abatement

- (a) The City shall abate all City property taxes for land and buildings for property on which new residential and/or commercial development occurs under the following conditions:
 - i. The value of the new development is greater than \$25,000 (which shall be based on “eligible expenses” as defined in the Delaware State Housing Authority Guidelines for the DDD Program); and
 - ii. The improvements meet the definition of a Qualified Real Property Investment as defined in 22 *Del.C.* §§ 1901 *et seq.*; and
 - iii. The property is within the DDD boundary as depicted in the DDD Plan dated July, 2018 prepared by AECOM and accepted by the Mayor and City Council at their July 16, 2018, and as may be amended from time to time; and
 - iv. The owner/applicant must not be delinquent on any obligations to the City; and
 - v. The new development is completed in accordance with all City requirements.
- (b) To be qualified as new development, the property must have had a building assessment of \$0 prior to the new development.
- (c) The abatement shall be for a 3-year period beginning the first tax year following completion of the improvements as certified by the City.
- (d) The abatement program described herein shall remain valid for only as long as the City’s DDD program remains certified by the State of Delaware.

3-33 Waiver Delaware City Real Property Transfer Tax

- (a) The City shall waive its portion of any real estate property tax transfer tax due upon the sale of any property within the DDD which being used as a rental property at the time of the transfer under the following conditions:
 - i. The property is within the DDD boundary as depicted in the DDD Plan dated July, 2018 prepared by AECOM and accepted by the Mayor and City Council at their July 16, 2018 meeting, and as may be amended from time to time; and
 - ii. The owner must not be delinquent on any obligations to the City; and
 - iii. The purchaser of the property shall certify to the City that they intend to reside at the property for a period of at least five (5) years from the date of closing.
- (b) In the event that purchaser fails to reside at the property for the required five (5) year period, any previously waived real property transfer tax shall be immediately due and payable to the City.
- (c) The transfer tax waiver program described herein shall remain valid for only as long as the City's DDD program remains certified by the State of Delaware.

Section 2. **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 3. **Effective Date.** This Ordinance shall become effective immediately upon passage.

(Signature Page Follows)

ADOPTED BY THE MAYOR AND COUNCIL, this 21st day of October, 2019.

ATTEST:

Brianna Loveland
City Secretary

Paul Young Sr.
Mayor

APPROVED AS TO FORM:

[Signature]
Council Member

[Signature]
City Solicitor

Elizabeth Koukus
Council Member

Margaret C. Likus
Council Member

Robert G. Malenowski
Council Member

[Signature]
Council Member

First Reading on 9-16-19,

Second Reading, Public Hearing, and Final Passage on 10-21-19.