

"A Historic Past"



"A Bright Future"

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

Ordinance No. 19-0916-06

**ORDINANCE TO AMEND CHAPTER 3 (TAXATION) OF THE CITY OF
DELAWARE CITY CODE BY INSERTING A NEW ARTICLE IV
RELATING OT THE IMPLEMENTATION OF A LODGING TAX**

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, § 2-01 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"); and

WHEREAS, tax revenues are necessary to the provision of quality City services in furtherance of the continued health, safety, and welfare of the Delaware City community; and

WHEREAS, the City enjoys a number of visitors and tourists who lodge temporarily in the hotels, motels, and tourist homes located within the City; and

WHEREAS, the City does not presently receive tax revenues from persons benefiting from City services while lodging in hotels, motels, or tourist homes within the City; and

WHEREAS, City Council finds it to be in the public interest of the City to implement a lodging tax of 3% for the occupancy of any room or rooms in a hotel, motel, or tourist home located within the City, thereby generating revenue to support public services such as, for example, police, beach patrol, trash removal, and stormwater management; and

WHEREAS, during the June 18, 2018 regular meeting of the City Council, City Council adopted Resolution No. 18-618-04 which authorized an amendment to the City's Charter to allow for a lodging tax upon the occupancy of any room or rooms in a hotel, motel, or tourist home located within the City; and

WHEREAS, Senate Bill 98, authorizing such a tax, was passed in the Delaware Senate on June 6, 2019, passed in the Delaware House on June 26, 2019, and signed into State law by Governor Carney on July 4, 2019; and

WHEREAS, the Mayor and City Council desire to amend Chapter 3 of the City Code, relating to taxation, to implement a lodging tax.

NOW, THEREFORE, making the express finding that the below changes enhance the health, safety, and welfare of the City of Delaware City, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Chapter 3 of the City Code is hereby amended by inserting a new Article IV, Section 3-34, as follows:

CHAPTER 3

TAXATION

ARTICLE IV LODGING TAX

Sec. 3-34 - Lodging tax.

a) Lodging Tax.

- (i) A tax is hereby imposed of 3% of the cost of the rent, in addition to the amount imposed by the State of Delaware, for any room or rooms in a hotel, motel or tourist home, as defined in 30 Del. C. §6101, which are located within the boundaries of the City of Delaware City.

- (ii) The lodging tax is imposed on the occupant and shall be collected by the operator of the hotel, motel or tourist home from the occupant at the time of the payment of the rent for the occupancy.
 - (iii) The amount of the tax collected for each month shall be reported and remitted to the City Manager or its designee within twenty (20) days after the end of the calendar month.
 - (iv) No lodging tax pursuant to this section shall be imposed for reservations or contracts for lodging that were paid in full prior to the date of the adoption of this Ordinance by City Council.
- b) Late penalty. All lodging taxes unpaid after the prescribed due date shall incur an interest charge of 1½% per month. Upon written notice and supporting documentation, the director of finance is hereby authorized to abate late payment penalty as necessary.
- c) Determination. If any operator fails to pay any lodging tax for which he or she is liable, the City of Delaware City may determine the additional tax and penalty due by such person or entity, based upon any information within its possession or that shall come into its possession. All determinations shall be made so that notice thereof shall be mailed to the person or entity against whom the determination was made within three years after the due date the lodging tax became due.
- d) Copy of Determination to Person; Petition of Redetermination; Duty for Disposition of Petitions; Notice of Final Decision. Promptly after the date of such determination, the City of Delaware City shall send, by certified mail to the physical address of the operator, a copy thereof to the person or entity against whom such determination was made. Within 90 days thereafter, the operator may file with the City of Delaware City a petition for redetermination of such taxes. The petitioner shall state with specificity the reasons the petitioner believes justify redetermination and shall affirm under penalty of perjury that the petition for redetermination is not made for the purpose of delay and that the facts set forth therein are true. The City Manager shall make a final decision within six months after the date of receipt of the petition and promptly provide written notice thereof to the petitioner.

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.

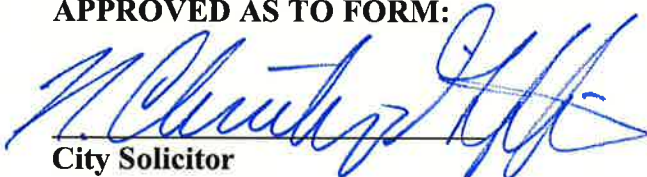
ADOPTED BY THE MAYOR AND COUNCIL, this 21st day of October, 2019.

ATTEST:



City Secretary

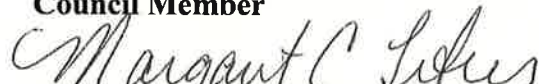

Mayor

APPROVED AS TO FORM:


City Solicitor


Council Member


Council Member


Council Member


Council Member


Council Member

First Reading on 9/14/19

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