

**CITY OF DOVER PLANNING COMMISSION
AGENDA**

Monday, August 20, 2018 – 7:00 P.M.

**City Hall, City Council Chambers
15 Loockerman Plaza, Dover, Delaware**

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

- 1) Site Development Master Plan Application S-18-07: Dover Mall Power Center Master Plan at 1365 North DuPont Highway will not be heard by the Planning Commission on August 20, 2018 at the request of the applicant. This Application and its Public Hearing will be rescheduled for a future Planning Commission meeting and will be subject to Public Notice requirements for the new meeting date.
- 2) Minor Subdivision Plan Application SB-18-03 Lands of Larlham Construction LLC at 35 & 39 North New Street will not be heard by the Planning Commission on August 20, 2018 due to incomplete public notice. This Application and its Public Hearing will be rescheduled for a future Planning Commission meeting and will be subject to Public Notice requirements for the new meeting date.

ADOPTION OF MINUTES OF MEETING of July 16, 2018

COMMUNICATIONS & REPORTS

- 1) Reminder: The next Planning Commission regular meeting is scheduled for MONDAY, September 17, 2018 at 7:00pm in the City Council Chambers.
- 2) Update on City Council Actions
- 3) Department of Planning & Inspections Updates

OPENING REMARKS CONCERNING MEETING PROCEDURES

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval:
 - a. S-16-17 Parking Lot at 623 Fulton Street – Request for one-year extension of the Planning Commission approval granted on September 19, 2016 of a Site Development Plan to replace an existing 11,600 S.F. +/- gravel parking lot with a thirty-four (34) space asphalt parking lot of the same area, with striping, parking bumpers, and lighting. The purpose of the parking lot is to provide parking for adjacent properties. The property consists of 0.33 acres and is located on the north side of Fulton Street east of Ridgely Street. The property is zoned IPM (Industrial Park Manufacturing Zone). The owner of record is Harrington Commercial, LLC. Property Address: 623 Fulton Street. Tax Parcel: ED-05-076.08-01-13.00-000. Council District 4. *Waiver Request Denied: Elimination of Sidewalk Requirement, Waiver Requests Approved: Partial Elimination of Curbing Requirement, Elimination*

of Bicycle Parking, and Elimination of Opaque Barrier (Fence Component). This application is associated with approved variance V-15-06 (granted March 18, 2015) to allow the property to use gravel surfacing for a specific time period.

- 2) MI-18-03 Text Amendments: Manufactured Housing and Land Lease Communities (Dover Code of Ordinances, Chapter 66 and Zoning Ordinance, Article 3, Section 8 and Article 12) – Continuation of the Review of Proposed Ordinance #2018-01 of Text Amendments to the *Dover Code of Ordinances*, Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities; to *Zoning Ordinance*, Article 3, Section 8- Manufactured Housing (MH) Zone; and to *Zoning Ordinance*, Article 12- Definitions. *The Public Hearing was held on March 19, 2018 and the Planning Commission tabled action. Then on April 16, 2018 the Planning Commission deferred action until June 2018 seeking additional information. At the June 18, 2018 Meeting, Staff provided an update report on the Ordinance work and the Planning Commission deferred action until their August meeting. Planning Staff is proposing Staff Substitute #1 for Proposed Ordinance #2018-01.*

NEW BUSINESS

- 1) Nomination and Election of Officers (Chairman and Vice-Chairman)
- 2) Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with *Zoning Ordinance*, Article 10 §2.28)
- 3) Project for Dover's 2019 Comprehensive Plan
 - a. Open House Event for Comprehensive Plan: Thursday, August 23, 2018 from 3:00pm to 7:00pm at the Dover Public Library, Meeting Rooms A & B. Presentations at 3:30pm and 5:30pm.
 - b. Update on Project Activities
 - i. Update on Survey and Data Collection
 - ii. Update on Evaluation of 2008 Goals and Recommendations
 - c. Discussion of Key Topics

ADJOURN

THE AGENDA ITEMS MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

Posted Agenda: August 10, 2018



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August 7, 2018

Mr. David Hugg, AICP
City of Dover
Department of Planning and Inspections
15 Loockerman Plaza
Dover, DE 19903

RE: **Site Master Plan Application**
DOVER POWER CENTER
Dover, Delaware
Project No. 2003182.15

Dear Mr. Hugg:

On behalf of our client Western Development Corp., we are hereby requesting that the Site Master Plan application for Public Hearing before the Planning Commission Scheduled for Monday, August 20, 2018, be tabled until further notice. We will notify staff when we wish to have the application heard before Planning Commission.

If you have any questions, do not hesitate to contact me.

Sincerely,

BECKER MORGAN GROUP, INC.

J. Michael Riemann, P.E.
Principal

JDR/jdr

Enclosures

cc: Mr. Herb Miller – Western Development Corp.
Mr. John Viglianti – Finisterre Design & Development Corp.

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**CITY OF DOVER PLANNING COMMISSION
JULY 16, 2018**

The Regular Meeting of the City of Dover Planning Commission was held on Monday, July 16, 2018 at 7:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Ms. Edwards, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welsh, Ms. Maucher and Mr. Tolbert.

Staff members present were Mr. Dave Hugg, Mrs. Dawn Melson-Williams, Mr. Eddie Diaz and Mr. Julian Swierczek. Also present was Mr. Willie Alexander. Speaking from the public were Ms. Bonnie Pennington, Mr. Charles Jackson, Mr. Roy Sudler Jr, Ms. Carmen Hardcastle, Mr. John Marble, Mr. Vance Thorpe and Mr. Harold Mack.

APPROVAL OF AGENDA

Dr. Jones moved to approve the agenda as submitted, seconded by Ms. Edwards and the motion was unanimously carried 9-0.

APPROVAL OF THE PLANNING COMMISSION MEETING MINUTES OF JUNE 18, 2018

Mr. Holt moved to approve the Planning Commission Meeting minutes of June 18, 2018, seconded by Mrs. Welsh and the motion was unanimously carried 9-0.

COMMUNICATIONS & REPORTS

Mr. Hugg stated that the Annual Meeting of the Planning Commission which we typically hold in July that includes the election of the Chairman and Vice Chairman will be scheduled for a future meeting once the appointment process for Commission members has been completed. He believes that happens at the next Council meeting.

Mr. Hugg stated that the next Planning Commission regular meeting is scheduled for Monday, August 20, 2018 at 7:00pm in the City Council Chambers.

Mr. Hugg provided an update on the regular City Council and various Committee meetings held on June 25 & 26, 2018 and July 9 & 10, 2018.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATIONS

Mrs. Melson-Williams presented the audience information on policies and procedures for the meeting.

OLD BUSINESS

- 1) Requests for Extensions of Planning Commission Approval:
 - A. S-16-14 Lidl Grocery Store at North DuPont Highway and Kings Highway NE – Request for a one-year extension of the Planning Commission approval granted on July 18, 2016 of a Site Development Plan application to permit the construction of an approximately 36,185 S.F. retail grocery store and associated site improvements. The project is to include a Parcel Consolidation Plan to re-subdivide the six parcels on site into three and abandon the unimproved right-of-way known as Midland Road. Construction would

involve demolition of all existing buildings on site. The property consists of 6.95 acres (7.275 acres prior to right-of-way dedication) and is located on a site bounded by North DuPont Highway, Maple Parkway, and Kings Highway. The property is zoned C-4 (Highway Commercial Zone) and IO (Institutional and Office Zone) with all site improvements to occur in the C-4 zone. The owners of record are Davis H. Wood, Wells Fargo Bank NA, and Kings Highway Land Partners, LLC. The equitable owner is Lidl US Operations, LLC. Property Addresses: 122, 136, 140 and 162 North DuPont Highway and 321 Kings Highway NE. Tax Parcels: ED-05-068.18-01-20.00-000, ED-05-068.18-01-21.00-000, ED-05-068.18-01-22.00-000, ED-05-068.18-01-23.00-000, ED-05-068.18-01-24.00-000 and ED-05-068.18-01-25.00-000. Council District 2. *Approved: Consideration of Area Subject to Tree Planting Requirement*

Representative: None

Dr. Jones moved to approve S-16-14 Lidl Grocery Store at North DuPont Highway and Kings Highway NE for a one-year extension, seconded by Mr. Baldwin and the motion was unanimously carried 9-0.

- 2) Update on Appointment of the Architectural Review Oversight Subcommittee of Planning Commission (in accordance with *Zoning Ordinance*, Article 10 §2.28)

Mrs. Melson-Williams stated that Planning Staff is still working with trying to confirm the two individuals that had previously served on that Subcommittee. Hopefully, they will have something for the Planning Commission in August one way or another.

NEW APPLICATIONS:

- 1) C-17-06 Pride of Dover Elks Lodge at 217 North Kirkwood Street – Public Hearing and Conditional Use Review of Application to allow an existing one-story structure to be utilized as an annual membership club serving members and their guests. The property consists of 0.15 +/- acres. The property is zoned RG-1 (General Residence Zone). The property is located on the east side of North Kirkwood Street, between Cecil Street and Mary Street. The owner of record is Pride of Dover Elks Lodge 1125. Property Address: 217 North Kirkwood Street. Tax Parcel: ED-05-076.08-05-02-20.00-000. Council District 4.

Representatives: Mr. Willie Alexander, Exalted Ruler of the Pride of Dover Elks Lodge #1125

Mrs. Melson-Williams stated that this is a Conditional Use Application titled Pride of Dover Elks Lodge for the property located at 217 North Kirkwood Street. This is subject to public hearing this evening. The request is a Conditional Use Plan to establish an annual membership club at this location. There is an existing building on the site. This application originally slated in late 2017 but was first deferred at the request of the applicant and then ultimately has been scheduled for this evening’s meeting. With the application, they hope to utilize the existing one-story structure as an annual membership club serving members and their guests specifically for the Pride of Dover Elks Lodge. The property is zoned RG-1 (General Residence Zone) and is

located on the east side of North Kirkwood Street between Cecil Street and Mary Street. The site was identified during a project undertaken by the Planning Office regarding “Non-Conforming Uses in Residential Districts”. At that point in time, it had been functioning as a Clubhouse under the appropriate Public Occupancy permits that were necessary; however, it came to the Planning Department’s attention in December 2015 that there were ultimately some issues at the Lodge. It came to the attention of the City through information from the State of Delaware Division of Alcohol and Tobacco Enforcement that there were some issues regarding the liquor license and the serving of alcohol at the facility. Ultimately, that resulted in the City revoking the ability for the location to be open as a Clubhouse which then made it a non-conforming use and the City required that the operations cease; that direction was given in January 2017. The Public Occupancy permit for the use as a Clubhouse was inactivated and the building has been vacant since that point in time. This evening, this is considered a new application to establish a use in that existing structure. By our *Zoning Ordinance* that use would be an annual membership club serving members and their guests. That is specifically how the term is listed in the Code. The applicant submitted a map diagram that highlights the location of the building and there is also additional information submitted about the surrounding neighborhood in the form of a letter. Then a packet of information was received that was titled “Pride of Dover Re-opening” that goes through the activities of the Lodge that they hold, the types of activities that they would hope to do at this location and some information about how they intend to establish a visitor/guest book sign in procedure at the facility. The site is in a residential area. The adjacent uses are primarily one family residences. With this Conditional Use, there are specific considerations that the Planning Commission must look to such as whether the proposed project is appropriate in the scale and type for the immediate neighborhood. Our DAC Report details those types of things to consider when looking at Conditional Uses including things such as accessibility for emergency response, harmony of location, size and character and looking at when in residential areas, the nature and intensity of operations. With Conditional Use applications, the action is just with the Planning Commission. The Commission has the final say from a procedural standpoint. They can require that the Conditional Use Permit undergo periodic review to ensure that it is meeting the established conditions that the Commission establishes.

There is no particular parking requirement for annual membership clubs. There is space for one vehicle onsite. There does not appear to be any bicycle parking on the site; however, there are sidewalks in this neighborhood including across the frontage. Currently, they have City of Dover trash collection utilizing the containers that the City can pickup for such a small-scale building. In the DAC Report, Planning Staff has provided some updates that would be necessary to the Plan Sheet and all documents would need to reflect any action taken by the Planning Commission this evening. Those include needing to evaluate the number of trees on the property which it is required to have three. There may be some existing trees in the back of the property that can satisfy that requirement. On Page 6 of the DAC Report, the Planning Staff has made a series of recommendations suggested as conditions of approval for this project in regards to the Conditional Use. The Planning Office specifically suggests the following conditions for a Conditional Use permit for the use of the existing building as an annual membership club serving members and their guests. At this time the Planning Staff is recommending with the re-opening of the club, not to include the service of alcohol at this time. The service of alcohol requires a series of improvements for the fire protection systems of the building in order to be able to serve alcohol under the City’s provisions setting aside any State regulations and procedures related to

having an alcohol license at the facility. Staff is recommending the re-opening but not to include the service of alcohol. The other item that Staff is recommending is that if they in the future would wish to provide the service of alcohol that it be a new application back to this Commission to expand that Conditional Use permit so that they may deal with the service of alcohol and the associated activities related to building improvements, management and the acquisition of any kind of license for that. The additional Staff requirements are that they would need to adhere to the occupant loads established by the Fire Marshal's Office. They are recommending that one bicycle parking space be established so that a bicycle can be adequately parked at the site and that this Conditional Use permit be periodically reviewed should the Planning Commission find it satisfying to grant it approval. That periodic review should be established one year from the Planning Commission action. The DAC Report goes on to include comments from the other regulatory agencies including the City's Public Works Department and Electric. The Office of the Fire Marshal has provided comments; a number of them are advisory in nature should they pursue liquor licensing in the future. There are no comments from DelDOT and the Kent Conservation District has no objection as there is no real earth-moving activities required with this project. To the Planning Commissioners, this is a Conditional Use permit. Staff is recommending approval subject to a series of conditions to establish an annual membership club within this existing building that was built a number of years ago for the specific purposes of a Lodge facility.

Ms. Maucher stated for the record that she is President of the Dover Elks Lodge which is part of the Benevolent and Protective Order of the Elks. It's an unrelated entity but it has a similar name.

Ms. Edwards questioned with Staff's recommendation of opening of the facility, what is the monitoring process if they are not allowed to serve alcohol? Responding to Ms. Edwards, Mrs. Melson-Williams stated that with the establishment of an annual membership club, there would be a Public Occupancy Permit that is required through the Office of the Fire Marshal. That places the building subject to inspections for that Permit. Of course, the service of alcohol anywhere in the State has State Licensing requirements so some of the monitoring could be done at the State level.

Mr. Hugg stated that he thinks that is correct. The City would not as a matter of course, be monitoring this sale or consumption of alcohol. That falls clearly under the Division of Alcohol and Tobacco Enforcement of the State. They would respond probably both upon complaint and periodically to determine that there wasn't any legal activity going on. Our inspections would be limited to regular compliance with occupancy and fire safety issues.

Mr. Holt questioned if this club currently meets now and roughly how many members are in this club? Mr. Hugg stated that he thinks that is a question to be directed to the applicant when they make their statement.

Ms. Maucher questioned what the tax status of the property is? Responding to Ms. Maucher, the applicant indicated its 501c3 status.

Mr. Alexander stated that he has to agree because that is what Staff came up with. Every black

organization from the Elks to the Masonic to the Legion, they are all in black neighborhoods. If you go around closing all of them it is going to be a bad and sad day. He appreciates what Staff has done to allow them to open.

Mrs. Melson-Williams stated that Mr. Holt has asked if you have been currently meeting and what are the approximate numbers of your Lodge? Responding to Mr. Holt, Mr. Alexander stated that they have been meeting at Demco behind Wawa located on Court Street. The daughters meet at Luther Towers.

Mr. Tolbert questioned if all members met at that location? Responding to Mr. Tolbert, Mr. Alexander stated yes.

Mr. Tolbert further questioned how many members are present during a meeting? Responding to Mr. Tolbert, Mr. Alexander stated that they always have a quorum which is at least seven people.

Mr. Holt stated that it is a service club and he wonders what types of projects the club participates in. Responding to Mr. Holt, Mr. Alexander stated that they have back to school for the kids, they have eye glasses for the older people, and a lot of stuff for the young people.

Mr. Tolbert questioned how many people they think would be in attendance at the facility should they open it again on any given evening? Responding to Mr. Tolbert, Mr. Alexander stated that their highest attendance was on a Sunday night but it won't be like that anymore. On any given day there would probably be 45-50 people. He thinks that the Fire Marshal said that they were allowed to hold 103 people.

Mr. Tolbert questioned how long the Lodge has been closed? Responding to Mr. Tolbert, Mr. Alexander stated since 2017 for 1.5 years.

Dr. Jones questioned if Mr. Alexander would speak to the recommendation that there be no alcohol served at least initially? She asks that question because she is aware of this facility. How would you operate and what would be your focus? Responding to Dr. Jones, Mr. Alexander stated that they would have the kitchen open and they would have projects and stuff like that. He thinks that they might be able to survive until they refocus some things and see what they can do in the future.

Dr. Jones stated that it states that they would control guests. Guests would sign in. Have you given any consideration to the number of guests to be permitted per club member? Responding to Dr. Jones, Mr. Alexander stated that each member would be allowed five guests that would have to have a card and the member would have to sign a book. If it needs to be refocused and let each member have three guests then they can do that; whatever works for this Commission they will work with.

Dr. Jones questioned what they see as the role of guests? What do you see guests being involved in? Responding to Dr. Jones, Mr. Alexander stated that they will be upstairs eating and socializing.

Mr. Holden questioned what weekly events they envision holding at the facility? Responding to Mr. Holden, Mr. Alexander stated that it would depend on other Lodges like Wilmington coming down to support them along with Cambridge and Easton. It's a Tri-State; it's Delaware, Maryland and Washington D.C. All of those Lodges would be coming to support them and try to make them viable and whole again.

Mr. Holden questioned if those would be weekly events or would those be determined as time went on? Responding to Mr. Holden, Mr. Alexander stated that as time went on.

Mr. Holden questioned if they envision planned events that happen every week, whether it is a membership meeting or other things? Responding to Mr. Holden, Mr. Alexander stated that membership meetings are the 1st and 3rd Monday night of every month. The Daughters meet the 2nd and 4th Tuesday of every month.

Ms. Edwards questioned what the intended hours of operation would be considering that there are no events planned right now? What would the hours of operation be until you have some organized plan of events? Responding to Ms. Edwards, Mr. Alexander stated that they would be closed by at least 12AM and everybody will be out of there.

Ms. Edwards further questioned if that would be the time for every night of the week? Responding to Ms. Edwards, Mr. Alexander stated no, this would be for just Friday and Saturday. They have never been open every night of the week.

Mr. Tolbert questioned if parking has been a problem in the past at this facility. He is raising this question because the facility is located in a residential community and from what he can see there is little or no parking at the facility. Responding to Mr. Tolbert, Mr. Alexander stated that Irish Mike's has no parking either, but that place is full every weekend. They park on Mary Street because there is nobody there. They park over by the Reserves.

Mr. Tolbert stated that he raised the question because they are in a residential neighborhood and if you have a number of people then they would have to park wherever they could and that may or may not be a problem in the area. Also, during Mrs. Melson-Williams' overview, she made mention that you were to have bicycle parking. Responding to Mr. Tolbert, Mr. Alexander stated that they can do that. As Mrs. Melson-Williams said, they have four dumpsters there. They can take one of the dumpsters away and make it a bicycle parking area.

Dr. Jones questioned how many members do you currently have? Responding to Dr. Jones, Mr. Alexander stated that there are twenty-five members and the Daughters have nineteen members.

Dr. Jones stated that as you move your plans forward, should approval be granted, then you might need to look at the number of guests per member. Responding to Dr. Jones, Mr. Alexander stated that there is never going to be all of those people there at the same time. They are going to have someone there counting them as they come and when we get to the limit then whatever guests aren't in they won't get in there.

Mr. Roach stated that he is concerned because the Commission has asked several times what

type of events they plan to have and on what type of consistency. You are saying that there might be events that you actually do get to capacity but he really didn't hear any statements in regards to what type of events you would have with 103 people there. Responding to Mr. Roach, Mr. Alexander stated that they will have to sit down and decide that now since alcohol is gone. What they envisioned is for those people who are from Easton, Cambridge and Washington D.C. would bring whatever they want to socialize with. They are going to bring their own stuff unless they have no alcohol in the building at all.

Mr. Holden questioned how would the potential for members to bring their own alcohol into the facility be governed or not governed by the City? Responding to Mr. Holden, Mrs. Melson-Williams stated that she can't pretend to know the State Alcohol Beverage Control regulations; however, from a City standpoint, with any place of assembly that starts to have the service of alcohol you get into a number of things from a fire protection standpoint. That may also include the BYOB option as well. Those numbers are fairly low that trigger a full sprinkler system for the building which this building does not have.

Mr. Tolbert opened the public hearing.

Ms. Bonnie Pennington – 200 North Kirkwood Street Dover, DE 19904

Ms. Pennington stated that Mr. Alexander told the Commission that they only park on two streets and that is a lie. They park from Kirkwood Street and Cecil Street all the way to Mary Street and all around the neighborhood on their grasses. They park everywhere. Her concern with the alcohol is if the Commission gives them the opportunity to open, they might not serve it but what about the people coming. They might drink it at the car before going into the club. He sat here and said they had a sign in sheet when they were open a couple of years ago but they got busted for lying. They only let so many people sign in and then they got caught with a lot of people who didn't sign in. They have more than fifty people in that building because she lives on the corner and she has seven bullet holes in her house from this club. It starts in the club and ends out in front of her house. In 2006, she hadn't even lived there for one year and a man got shot in front of her house and died from the Elks Club. She is going to fight this tooth and nail because she does not want that club open. She has a handicapped grandson who lives in her house and he cannot walk. When bullets fly they have to hit the ground. It is uncalled for, for them to have to live in a residential neighborhood and have her stuff shot up. Are they going to pay for it? No. Does she have the money to replace that? No.

Mr. Charles Jackson – Kirkwood Street Dover, DE 19904

Mr. Jackson stated that when he was young back in the late 1970's, he would go to the Elks. As years went on, things have changed. We have a problem with gun fire now and fighting out in the street. One of the problems is that they may not buy the alcohol from the Elks but they bring their own alcohol. Next thing you know, it gets late in the evening and there are fights and gun fire. When we first started the issue with the Elks, they met with them and they asked if they would do a little more to get control of what's going on. They suggested creating a relationship with the Police to kind of monitor what's going on at a certain hour, but they were told that when they come out of the Elks and get on the curb, it is not their responsibility. If they worked with the neighbors on this problem, they may not have been here. They want to be safe. One of his neighbors was in his house sitting in the kitchen and he got up from where he was sitting and

there was a bullet that came through the window. If he would have stayed in the chair for a few more seconds he may not be here now. They need someone to make an effort to control what is going on because taking the liquor license from them doesn't stop the drinking and carrying on the way they are doing.

Mr. Tolbert questioned if Mr. Jackson was speaking for himself or for a community organization? Responding to Mr. Tolbert, Mr. Jackson stated that they have a Kirkwood Street Neighborhood Watch and he is speaking for them.

Mr. John Marble – unknown (owner of several properties in area)

Mr. Marble stated that he has been here before. He wants to thank each of the Commissioners for serving in their respected positions and for steering our City through these times with the economic slowdown, with the Downtown Development and Habitat for Humanity, and the revitalization. He applauds the Commission for that. The reason he wanted to say that is because he has been here before and he has done Minor Subdivisions for promoting homeownership. He is a businessman in the community. He owns nine rentals across the street from the Lodge. They are low income rentals. Sometimes there are problems with domestic things but it's not criminal. He just wanted to say that he was involved with Habitat for Humanity for six years; he was the Building Committee Chairman. He helped spearhead the rebuilding of this street. About eighteen years ago he was down here with Mr. Christmas, Mr. Pitts, Mr. Salters and various others. They had a go-around in this Chamber and nothing had changed. He was accused of things that he was deeply offended by. We are racially integrated in this community. His wife's mother lived at 218 North Kirkwood Street in 1953 along with her bother. It is a mixed neighborhood; it is not a primarily black neighborhood, whatever that means. From a business standpoint, he has got some information here about crime and neighborhoods. When you have establishments such as this going on it really does not help what the general plan is for a community. You have Irish Mike's which is in a commercial district where there is parking areas. There is a parking garage coming. You have a Downtown area which is a commercial district. This is a residential district. He partnered with the City and State; he was the first person to receive the Downtown Development District Incentive on Mary Street. He used his own money and his own savings to build a beautiful 1,500 square foot home that he could not even sell. You don't even have to go to the neighborhood to found out what's going on; the Police calls and gun shots. Everybody said they loved the house but people don't want to buy it. We just read that there was gun fight last night. He ended up having to break even on the house which he doesn't mind because he knew that he was doing the better thing. You come around the corner and you see that house plus the Dover Housing Authority houses that they built there; you look like you are entering a development but you are entering Kirkwood Street. Things have improved and that is what they are trying to do. He likes the idea of no alcohol. He likes community centers and things of that nature and people getting involved. If they would put a stipulation that there would never ever be alcohol there then he would vote for it to be open. They could have prayer group; they could do all kinds of things. The alcohol is out of control. They are blocking the driveways and there are bottles thrown at people. Chief Mailey gave them a report showing that as soon as they closed up, crime stopped 80%. The statistics are there. You need to revitalize yourselves; maybe change the name. He thinks that he could prove that you are affiliated to the Elks; they are an organization. He thinks that the two lodges have something in common over history because way back when there was segregation and ugly things like that. Blacks were not allowed in white Elks Lodges back in the

day. He does not remember that; he loves all people for who they are no matter what color they are.

Ms. Carmen Hardcastle – 121 North Kirkwood Street Dover, DE 19904

Ms. Hardcastle stated that she is a retired educator. She is the daughter of the late Dr. James C. Hardcastle. She grew up at 121 North Kirkwood Street. She retired three years ago and she came back. The first week that she was home she heard gun fire. She didn't hear all of that when she was growing up and she had to hit the floor. The incidents report from 2006 to 2015 is from just the Elks Club. She doesn't have a problem with the Elks; she used to go the Elks when she was growing up. Her concern is not inside the Elks; her concern is what goes on after the Elks closes. They have asked them to hire security for when it closes or someone from the Police Department to monitor what's going on after it closes to get the people to move because they park in front of her house and fights start. She has bullet holes in her house also. She doesn't like hitting the floor on the weekends; she doesn't even want to come out of the house on the weekends when they open. They shouldn't have to live like this. Now she sees people walking down the streets, kids are playing and people are walking up and down the streets. It's a big difference now. People are taking their kids to the playground that they have on Mary Street. She didn't see this in the three years that she has been back home. If you do allow them to open up, between 12AM when they close and maybe 1AM, have some kind of security there to move those people on because that is when the problem arises. They defecate on the side of her house. She has had some work done at her house and she had workers come and they came to the side and she couldn't believe it. They don't have to hit the floor at night time when they are open because they close and go home to their homes but they are not living on Kirkwood Street. They shouldn't have to hit the floor because of gun shots. She is not saying that it's because of them; it's because the Elks Club brings a bad element.

Councilman Roy Sudler, Jr.

Councilman Sudler stated that he would like to take this moment to share something that he received. It's very disturbing but it's not too bad. *(Councilman Sudler shared a message from his cell phone from a constituent on January 3, 2018 stating to keep the Elks Club closed permanently.)*

Mr. Harold R. Mack - unknown

Mr. Mack stated that he doesn't think that it's about ethnicity; it's not about color. He was talking about a trend and a timeframe. As far as shootings, that is community policing. We are talking about community policing that should be occurring in the Dover district. We are talking about an organization that has been around and has been a trend for those people at one point who could not have social clubs and things of that nature. It's not about the black and white issue; it's about the pride in that organization. The other side of that is that Delaware is a transient State. It's bringing in other types of personalities. He is prior law enforcement himself with over thirty-one years so he sees a lot. Community policing and crime mapping that they see that they are coming from New York, Philadelphia and Washington D.C. Looking at these other residents who have been living there for so many years, it's not the Dover Elks Lodge that has caused these shootings and murders. It's the other transient people who are coming in and bringing other behaviors. This is why Delaware is in the state that it's in today. He knows because they just lost a Correctional Officer Steven Floyd and they talk about the inmate clients

who come into their community. When the gentleman spoke about the crime that is occurring, it's not the Elks Lodge. This Lodge has done numerous things for the community. On April 8, 2016, he gave this Commission something that went on record about the activities that they asked about. It was a two-page docket that said what they do quarterly, weekly and monthly and what they have done for the community. Some of that stuff has went to pass and some people have put it to rest. It is about community treating people like people and this is what this whole thing is about. It's not about selling property and the value; it's about bringing the value back to the people who live in the community who trust it.

Mr. Vance Thorpe – unknown

Mr. Thorpe stated that he is the Chief Antler for the State of Delaware. He has been a member of the Elks for fifty years. He has been Exalted Ruler of two Elks Lodges; Wilmington and Newark and now he is in Dover. The Elks is about community service; however, the way they raise most of their funds is through the sale of spirits. They have other ways of making money and they are still about doing community service, civil liberties, conservation of self, helping the needy and mainly they focus on scholarships for students that may never get the chance to go to college. This is the major function that they try to do. He's traveled to Elks Lodges all over and he has never been turned away from an Elks Lodge when he shows his card. They receive him, give him the upmost hospitality and treat him like a human being. IPOENW has made preparations to try to work together because we are all doing the same work. The Masonics now have packs and they are working together because they all do the same work. They should be about community service to those that are most unfortunate and may never get a chance to go to college without the support and help of the Elks. They aren't about socializing; they are about community service and this is the main function that they should be under. They went astray with some rulers that got in and didn't do what they were supposed to do just like anything else. They are supposed to be about community service and they have never went against the Constitution of the United States. They try to make things better and unfortunately some things do get worse.

Mrs. Melson-Williams stated that she does have to reference something in order to put it in the record. Included in the Planning Commissioner's packets were copies of correspondence that was received regarding the application that had been submitted to the Planning Office prior to tonight's meeting. They include a series of emails. There is an email from a Mr. Benjamin Black of 213 North Kirkwood Street. He expresses his concerns about the re-opening of the facility. That was an email dated December 2, 2017. It was sent to Councilman Sudler and also to Mayor Robin Christiansen. There is a second email from a Mr. Travis Thompson who lives at 226 North Queen Street. That is an email dated December 6, 2017 that is expressing concerns about activities in the area. There is an information document that was forwarded to the Planning Director by Mr. Roy Sudler via email from December 7, 2017 with the request that it be provided to the Planning Commission in regards to the application. (Note: Councilman David Anderson requested that this information on 217 North Kirkwood Street be made part of the record for the conditional use request. The Request was made by motion at the Parks Recreation and Community Enhancement Committee Meeting of February 13, 2018.) It's some statistics from the Dover Police Department covering timeframes in 2016 and 2017. It's a series of charts and bar graphs.

Mr. Tolbert closed the public hearing.

Mr. Alexander stated that he thinks the gentleman misunderstood him earlier. It wasn't about color or race. He was just trying to give the history of how blacks try to help each other out and the only place they had was in a black neighborhood. It wasn't anything about black and white. He is sorry if anyone took it that way. He also said in the beginning that the capacity of that building was 103 people; he didn't not say 50.

Mr. Holden stated that he thinks with any Conditional Use and as Code directs, the applicant is required to show that their application is in compliance with public health, safety, welfare and convenience of the local public and in harmony of the character with the local area. He thinks that they have heard a lot of comments from the public over strong concerns from historical issues. They have seen some information from the Police that addresses the apparent correlation of those issues that seem to follow along with the public's statements. He doesn't think that they have heard from the applicant, an acknowledgement of those issues nor a path to address them.

Mr. Holden moved to deny C-17-06 Pride of Dover Elks Lodge at 217 North Kirkwood Street for the reasons stated above, seconded by Ms. Edwards and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; for the reasons stated in the motion. Mr. Roach voting yes; due to the concerns from the community in regards to the parking and the crime in the area once the club was closed. Ms. Edwards voting yes; as a Rotarian and immediate Past President of a Rotary Club she understands the importance and how critical community organizations are to the community but based on the reasons previously stated and the outpouring of concern from the community she is inclined to approve the motion as stated. Mr. Holt voting yes; he feels sorry for the Elks because he thinks that they do a good job but they are kind of between a rock and a hard place and the hard place is that they have had peace and tranquility in the area and they can't have it the way things are at this present time. Mr. Baldwin voting yes; he understands that the Elks do good work; however, after listening to the neighbors and past history he thinks that it's perhaps just in the wrong location. Dr. Jones voting yes; she is concerned that we were not able to get additional specific information regarding community service. She is very familiar with the Elks and she just thinks that there could have been a better presentation to talk about the connection between the services of the Elks and the community. Mrs. Welsh voting yes; she agrees with what Mr. Holden and Dr. Jones said about more information regarding the specifics of the organization such as things like what specific hours they intended to have meetings and what times the meetings would have ended. Those types of specific details she thinks would have helped a lot for giving the information as to their service to the community. Ms. Maucher voting yes; for reasons previously stated and community organizations do a lot. It would have been good to hear that you recognize the problems that you have had and what you can do aside from not serving alcohol to address some of the concerns of the community going forward. Mr. Tolbert voting yes; unfortunately, the presentation that was presented to the Commission was overwhelmingly negative about all of the problems that have occurred in a residential area where this facility is located. Although they have had a good record of doing community and public service, that was not brought out in this hearing. The presentation did not cover all that needed to be covered given the history and the record of the Elks Lodge. He is compelled to vote in favor of the motion and he would hope with all of his heart that you do not stop, that you continue to try to make the Elks what you intended for it to be. Alcohol is never a good thing unless it is absolutely controlled.

- 2) Series of Text Amendments to the Zoning Ordinance: The three sets of Text Amendments are grouped into Proposed Ordinance #2018-06. They are available on the City's website www.cityofdover.com under the Government Heading: Ordinances, Resolutions & Tributes. <https://www.cityofdover.com/ordinances-and-resolutions>. The Planning Commission will conduct a Public Hearing on each Text Amendment for recommendation to City Council. The Final Reading/Public Hearing at City Council is scheduled for Monday, August 27, 2018 at 7:30pm.
- a. MI-18-05 Text Amendments: Addition of IPM3 Zone (Zoning Ordinance, Article 3 §20 & 24, Article 4 §4.16, Article 5 §8, and Article 12) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, principally Article 3 §20 - Industrial Park Manufacturing Zone. The proposed ordinance adds a new subsection 20B for the IPM3 Zone (Industrial Park Manufacturing Zone- Industrial Aviation and Aeronautics Center). The new zone is an industrial zone focused on permitting businesses in aviation and aeronautics-related industries. Changes are also made to the City's Bulk Standards and Performance Standards to ensure the new uses will be covered under those standards.

Representative: None

Mr. Diaz stated that there are three sets of proposed text amendments. They are all going to be part of the same Ordinance update to the *Zoning Ordinance* if recommended, when they go to City Council next month. The first amendment is the proposed addition of an IPM3 Zone to the *Zoning Ordinance*. This designation would be similar to the existing IPM and IPM2 zones and that would be a zoning primarily focused on industrial parks. It would be different in that this is titled to be the Industrial Aviation and Aeronautics Zone which would be a zone focused mainly on aircraft and aviation related uses. The reason for adding this zone to the *Zoning Ordinance* was concerns by the runners of the Civil Air Terminal in Dover and hoping to do some development of the Kent County Aero Park that is next to them to build industry in that area. If this zone designation is successfully added to the *Zoning Ordinance*, they would follow up this process with a Comprehensive Rezoning to rezone some properties in that area to the new zoning designation in order to ultimately develop that industrial park with aviation and aeronautics related uses. The zoning designation includes a number of provisions designed to basically make it easier for developments of that type to be in the zone; things like a reduction in the typical tree planting requirement because trees can attract birds and other wildlife that may interfere with aviation uses. The Text Amendment contains a full list of the changes that are proposed for that zone.

Mr. Tolbert opened the public hearing and after seeing no one wishing to speak, closed the public hearing.

Ms. Maucher questioned if it would have been possible to amend an existing ordinance rather than creating a new one or was the detail that was required so sufficient to require a new ordinance? Responding to Ms. Maucher, Mr. Diaz stated that during the discussions that they had with the representatives of the Kent County Aero Park, there were a number of options that

were discussed at the beginning. One of them was amending the existing Industrial Park zones to allow aviation related uses but in the end they thought that they don't want to open the other industrial parks in the City to these types of uses because they are really supposed to benefit from proximity to the Civil Air Terminal and the Air Force Base itself. That is why they thought that a new zoning district would be the most appropriate course of action.

Dr. Jones moved to recommend approval to City Council for MI-18-05 Text Amendments: Addition of IPM3 Zone (Zoning Ordinance, Article 3 §20 & 24, Article 4 §4.16, Article 5 §8, and Article 12), seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff comments and he thinks the potential economic benefit for our regional footprint is impactful. Mr. Roach voting yes. Ms. Edwards voting yes; for reasons previously stated. Mr. Holt voting yes; due to Staff comments and the work that they put into it. Mr. Baldwin voting yes. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; for the reasons previously stated. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; for all of the reasons stated and this change is absolutely needed.

- b. MI-18-06 Text Amendments: Replacement of Maximum Parking Requirement (Zoning Ordinance, Article 4 §4.15 & §4.16, and Article 6 §3) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance* in Article 4 and Article 6 to remove the existing maximum parking standard and replace it with new impervious cover (lot coverage) limitations where excessive parking lot size is of particular concern in commercial and industrial zones. The existing standard sets maximum parking for any use at 125% of the minimum required. Under these Text Amendments, this standard would be replaced with lot coverage limitations for the C-3, C-4, RC, IPM, IPM2, and M Zones, all of which currently lack any such limitations.

Representative: None

Mr. Diaz stated that this text amendment is intended to address a provision in the *Zoning Ordinance* that has been a frequent concern of developers and also a frequent request of relief at the Board of Adjustment. The current *Zoning Ordinance* has a maximum parking requirement. The *Zoning Ordinance* sets for pretty much all uses, a minimum parking requirement that is based on things like square footage or number of employees or apartment units. It is a greatly varying list of possible things determining what that number is but there is also a maximum parking requirement that is set at a uniform 25% over the minimum. While this amendment has been intended to combat the proliferation of extremely large parking lots that often are not filled to capacity, the Ordinance has caused problems especially for very small businesses that have greatly reduced flexibility due to the 25% over limit. For instance, if you have a business that requires ten parking spaces they are only allowed to build an additional two spaces before hitting the maximum. Because this Ordinance has not been really functioning as intended, they propose to replace it with a new way to control the size of very large parking lots and that is to institute a maximum impervious surface coverage for a number of the zones in the City. Particularly, it is for the more intensive commercial zones where such an impervious surface coverage requirement did not previously exist. It is different for each of the zones but it would be in the 65% to 85% maximum lot coverage for the zones that do not previously have this designation.

They believe that this will work towards controlling the parking lot size problem.

Ms. Edwards questioned how we currently determine the amount of impervious surface and if we remove that and replace it with a maximum lot coverage, what would the new calculation look like? Responding to Ms. Edwards, Mr. Diaz stated that the current lot coverage is determined by adding up the total square footage of all impervious surfaces on the property; so it includes the buildings, the parking lot and any sidewalks. For residential properties, it includes driveways, patios, etc. It does include gravel areas if the property is legally able to have those. The intent is that by putting a limit on maximum lot coverage for these zones that did not previously have any that the developers will have to basically make a balance between the building, the parking lot and other impervious surface areas. If they wanted to have a bigger parking lot, then they may need to have a smaller building. Those considerations previously, often did not come into play when developing the intensive commercial zones and industrial zones such as the C-3, C-4 and the IPM Zones.

Ms. Edwards further questioned how we now determine the number of parking spaces? Is it based on square footage of the building? Is it based on the number of people who are going to occupy the building or the number go businesses that occupy a building? How do we determine that now? Responding to Ms. Edwards, Mr. Diaz stated to determine the minimum parking that is required, there are a variety of ways that are used. In most cases, it is based on the square footage of the building or the number of employees who are employed in the building; whichever is greater. There are also a number of specific uses that are listed in Article 6 of the *Zoning Ordinance* that have their own parking requirements that are specific to that use.

Ms. Edwards questioned how we would determine the new amount of parking space? Responding to Ms. Edwards, Mr. Diaz stated that the way to calculate the minimum number of parking spaces would not change under this Ordinance.

Mr. Holden questioned if this creates new and/or increase in the allowable lot coverage ratios? Are we bumping up numbers that were previously a less percentage of maximum allowable lot coverage? Responding to Mr. Holden, Mr. Diaz stated that this Ordinance is introducing maximum lot coverages for zones that did not previously have any maximum lot coverages. For instance, for the C-4 Zone the previous maximum lot coverage was not specified. By specifying a specific lot coverage, they can assume to be reducing the maximum lot coverages from previously allowed 100%.

Mr. Holden stated that the IO and CPO Zones did have previous maximum lot coverages. Responding to Mr. Holden, Mr. Diaz stated that is correct.

Mr. Holden stated that as he understands this, the maximum allowable parking spaces now is really just limited by how much of that lot coverage percentage an applicant wants to utilize for parking. Responding to Mr. Holden, Mr. Diaz stated yes, that is correct.

Mr. Holden stated that he thinks the maximum parking spot limitation was driven in some part to protect against a big box store or others from creating a sea of parking that might be desired to create easy parking and easy access to a store where from an aesthetic or other standpoint; we

don't necessarily want seas of parking in the City. His concern here is that you can get around any of that by just buying more land and putting a sea of parking around it. Did we consider an approach to take the 125% to 150%? It makes him a little uncomfortable in his view to remove a maximum for any extent practical purpose. Is there another approach that was considered? Why go this route? Responding to Mr. Holden, Mr. Diaz stated that when they first started having this discussion, they did talk about increasing the maximum allowed parking from that 25% ratio to a higher one or potentially introducing a tiered system, for instance, if your business requires a very small amount of parking spaces it would be a higher allowed maximum. For instance, the ten spaces that he previously mentioned could go up to 200% and then when you get to like twenty-five spaces it could go down to 150%. The problem with that was that it created sort of pinch points in the tiers where if you were required just one parking space more or one parking space less than the maximum you allowed would be drastically different. For that reason, they thought that it would be best to scrap the maximum all together and look for a different solution.

Mr. Holden stated that it is a challenge but he thinks that he would really much prefer to find if we had a tiered approach or a simple equation that related the parcel size or development size to account for those smaller lots. That 150% addition is only an additional half parking spot. If an application with a big box store wants a sea of parking, they just need to buy a parcel big enough to build a sea of parking and accommodate their store. How does this approach guard against that concern? Responding to Mr. Holden, Mr. Diaz stated that there is only so much developable land in Dover. The big open areas where one could potentially build a parking lot, there aren't as many as their used to be. If an applicant wants to buy land and demolish buildings specifically to build just parking; he is talking about removing productive uses specifically so that they can add to their parking area is going to be a business consideration that they are going to make. He doesn't know if that makes Mr. Holden more comfortable or not but he doesn't think that it's likely that they would do that.

Mr. Holden stated that there are large lots left. The lot on the south side of Home Depot for example, that's a big area. Those maximums were created at some point to guard against applicants that they had and the perception of some of the commercial businesses and the paving areas that we do have within those. He thinks that the reality is there that are some businesses may push there. He would like a tool that allows them some purview over that and he doesn't see a need why that can't be at the Planning Commission. At times, they have had applicants come and provide information from other stores that supports that their specific use really demands a specific amount of parking. He thinks that this group has been very open to those discussions. Increasing that ratio whether via tiered or via a simple equation that doesn't create those tier pinch points, gives us that ability without having to send the applicant to the Board of Adjustment which he thinks is negatively impactful for economic growth when you have that uncertainty. He thinks that the Planning Commission is typically very open to working with the applicant. He would really rather see this reworked in that fashion. Responding to Mr. Holden, Mr. Hugg stated that when they first considered this approach, one of the analysis that Staff did was to actually look at majority of the larger development projects that have occurred in Dover in the last four or five years and also the number of variances to the parking requirements that have come before the City for approval. These numbers were not picked out of the air; they were sort of tied back to what they are actually seeing applicants ask for variances to actually develop. The difficulty that we have is rather is 125, 150 or 160 or whatever the number is, it's an

extremely arbitrary number that as soon as you set it you have an exception that has to be granted because it creates that particular use difficulty. It seemed to them that there were really kind of two objectives here. The first one was to address this issue of if you have a doctor's office and the Code says you have to have ten spaces and the maximum that you can have is 12.5 then you probably still don't have enough parking. Doctor's offices and those kinds of uses have sort of peaks and valleys and high turnover and may very well need twenty-five parking spaces. A bakery may not need that kind of turnover. Coming up with a standard or set of percentages or maximums seemed to be pretty much unworkable. The other objective was to put some of the decision making burden back on the developer and say you've got a choice now. You can't exceed 65% coverage so you figure out what makes the most economic sense. As Mr. Diaz said, that puts the choice of do they go for a lot of parking and end up with a much smaller building or do they go with a bigger building and modify the parking. Those kinds of decisions belong in the hands of the developers and the people who are doing the development. He doesn't think that it belongs in the hands of Staff to say that it says a certain number. This is one of the half a dozen or so major obstacles that he heard fourteen months ago when he came on board from the development community. They said that Staff was trying to put a box around some of these decisions that either didn't fit and made them come back here and ask for a waiver for their parking or just created some difficulties that didn't seem to aid in economic development. It's always a challenge to figure out what kind of approach works best. Starting with what has been the actual experience over the last five years with a variety of development projects is how they came up with these 65% and 75% limitations. It's probably the realistic approach to making these kinds of decisions rather than saying you can't have more than 125% of something.

Ms. Edwards questioned how this amendment affect existing businesses? In Mr. Hugg's example of the doctor's office who may need twenty-five spaces but only has twelve. How does this amendment effect existing businesses or is this just strictly for new construction? Responding to Ms. Edwards, Mr. Hugg stated that this would be proactive. If an existing business is already under that limitation like any other they come back and go through the approval process again and modify their plan. For new businesses, this would give them that flexibility. There is just a handful of these that really create issues because they have doctor's offices, restaurants and certain kinds of businesses have very high parking peaks. At 3PM in the afternoon there is nobody parked there, from 5-9PM there are people parked everywhere and at 9PM there is no need for parking so that standard just doesn't work well as an absolute.

Ms. Maucher questioned if Staff had reviewed this with the development community and do they seem satisfied that these percentages would work for them to avoid issues going forward? Responding to Ms. Maucher, Mr. Hugg stated that this proposal has been shared with a number of the developers and the people that were involved in the group that he put together when he first came on board to look out how to solve this problem in an effective and efficient manner. He thinks that some of the engineering community generally feels much better working with figuring out 65% impervious cover because they can manipulate how they use the lot and how they deal with stormwater and other things as opposed to trying to fight to get to an artificial number or come in with a variance.

Mr. Tolbert stated that if this amendment is approved it will give the Planning Office more flexibility in parking requirements.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak, closed the public hearing.

Ms. Maucher moved to recommend approval to City Council for MI-18-06 Text Amendments: Replacement of Maximum Parking Requirement (Zoning Ordinance, Article 4 §4.15 & §4.16, and Article 6 §3) to give more flexibility in the maximum number of parking spaces, seconded by Mrs. Welsh and the motion was carried by 8-1 roll call vote. Mr. Holden voting no; he thinks that they can accomplish the same thing via a method that does provide some maximums but with greater certainty to the development community. Mr. Roach voting yes; to give the Planning Staff the flexibility and the Commission is still able to vote on it when it comes to them. Ms. Edwards voting yes; she presumes that if it's determined at some point in time in the future that this does not work as amended then they would take a look at it at that point. Mr. Holt voting yes. Mr. Baldwin voting yes; for reasons previously stated. Dr. Jones voting yes; for reasons previously stated. Mrs. Welsh voting yes; for reasons previously stated. Ms. Maucher voting yes; for reasons previously stated. Mr. Tolbert voting yes; it does provide some flexibility and if at some point in time they need to change it then it can come back before the Commission.

- c. MI-18-07 Text Amendments: Vehicle Signs (Zoning Ordinance, Article 5 §4) – Public Hearing and Review for Recommendation to City Council of Text Amendments to the *Zoning Ordinance*, Article 5 §4 intended to clarify what qualifies as a vehicle being used for the sole purpose of signage. Under the current Ordinance, vehicles are not permitted to be used for the sole purpose of signage. The Text Amendments would provide a list of criteria the City Planner can use to make a determination that this provision has been violated. It also specifies that vehicles in violation are to be moved to an area of the property where they are not visible or less visible.

Representative: None

Mr. Diaz stated that this amendment regards signs that are placed on vehicles. He is sure everyone here has seen a vehicle that has a sign on it, whether it's a Domino's Pizza truck or a Comcast truck or a truck that has a banner saying please come this way to our business. There is currently in our Ordinance a provision that says that vehicles cannot be used for the sole purpose of signage; however, the Inspections Office has had trouble enforcing this provision in the past because there isn't a clear definition of what "used solely for the purpose of signage" really means. If you drive around the City today you can see a number of vehicles that move rarely or not at all that have logos belonging to nearby businesses on them. But it has not been easy to determine for certain that all of these vehicles are in fact being used for the "sole purpose of signage." The purpose of this Ordinance amendment is to give the Planning and Inspections Office some clarity and criteria on how to actually apply this requirement so that moving forward into the future they can make sure that they are able to enforce the Ordinance. The major part of it gives a list of criteria that the Planning Office can use to make determinations. There is also a Staff amendment on the table that has done some work to consolidate those criteria into a few more concise ones. It also clarified the number of criteria that would need to be met before a determination could be made. The Ordinance can be either recommended as it stands tonight or

recommended with inclusion of the Staff Amendment.

Ms. Maucher questioned if Staff could give them an idea of what problem this is meant to cure? Responding to Ms. Maucher, Mr. Hugg stated like that Thai Restaurant van parked in the parking lot with a one-way directional arrow on it saying "Thai Restaurant". That is clearly a vehicle being used for sign purposes; it never moves and it would make no sense if it were turned around in the other direction. When the mulch guy was on DuPont Highway near the Indian restaurant, there was a big van truck out there that said "Mr. Mulch". That vehicle never moved and it was clearly an advertising sign. The Cold Stone Ice Cream place had a van parked for a long period of time that never moved and was clearly being used as advertising. The former La Tolteca had a van box truck backed in at an angle clearly taking advantage of that issue. When he did a survey earlier in the year looking at this issue which was actually brought to his attention by a member of City Council, he thinks that there were 12 or 13 potential violations. They were really questions of is this vehicle being used solely for the purposes of a sign because they didn't have any real criteria. That said, does it go home at night, is it backed away from the highway at night time, is it moved around or do they make deliveries in it? It was very difficult to bring any kind of enforcement action. The desire was to provide some criteria so that there would be some basis for making that kind of determination; being equitable to other people who aren't allowed to have trucks with signs on them and have to meet sign requirements; and to avoid the proliferation of these kinds of vehicles up and down the highway. He does want to make the point for the record too that the Staff Amendment is a result of the discussions that took place at the Council Committee of the Whole Workshop. They received important input from that meeting to make sure that they were achieving the desire that they were hoping to receive but not penalizing people who had vehicles that had signs on them that were used in the regular course of business. Staff recommends the Amendment which is the version of the Ordinance that was recommended from the Council Committee of the Whole for consideration by the Planning Commission.

Mr. Holden stated that he appreciates this potential opportunity to address some of those issues that were just described. He wonders if they have thought of if the vehicles are parked in an identified parking spot. He can think of a few of these potential uses of a vehicle really kind of a sign first and only where they park a vehicle on a corner. He thinks is a safety concern but also isn't really an identified parking spot although it is within a lot where there is specified striping. Is there an avenue to or has there been some consideration of including a criteria item that would identify vehicles that are routinely parked in areas that are not specified striped parking spots? Responding to Mr. Holden, Mr. Hugg stated that where people are parking vehicles generally is subject to a number of provisions already in the Code that relate to where vehicles are parked. This particular issue has to do primarily with the question of business signage and the use of vehicles as a sign for a business. It is a much stricter focus.

Mr. Holden stated that he thinks of the staffing agency that is next to the deli on Governors Avenue just a couple businesses down from the Becker Morgan Group. They typically park the van with signage on it catty-corner right on the corner so that it's almost on top of the sidewalk. It's right on the backside of the historical Green and there certainly doesn't seem to be a striped parking spot there. Within the specific attempt to address vehicles being used as signs inappropriately, has there been discussion over adding criteria that would allow you to address

those if they were not parked in identified striped parking spots or is that not needed because of the other parking criteria within the City? Responding to Mr. Holden, Mr. Diaz stated that one of the criteria is that if a vehicle is parked so that its signage is currently displayed to the public when a more discrete parking space is available on-site, they would consider that pointing to that vehicle being solely used as signage. In the case that Mr. Holden mentioned with the vehicle cattycornered, it sounds like it is parked in a location specifically to be very prominently displayed to the public. Since there are parking spaces available on the lot that it could use then it should be using those instead of the cattycorner under this criteria.

Mr. Holden stated that he would suggest maybe adding a criteria that allows Planning Staff the discretion that if it meets one of the other criteria and is also parking itself in an area that is not an identified striped parking spot then it would give an additional criteria tool to address the issue that he thinks they are trying to address here. Responding to Mr. Holden, Mr. Hugg stated that he thinks that he understands what Mr. Holden is suggesting. That would not be a provision that would be in the vehicle sign provisions which is what this particular amendment solely addresses. There are existing requirements and Staff can certainly go back if some of them need to be addressed as well. He knows that you can't park in a manner that blocks the line of sight at an intersection and you can't park a vehicle on the grass. There is a whole series of parking related issues that perhaps they should take another look at but this particular issue was intended to deal solely with the applicability of the sign provisions and vehicles. He is not sure that this is the right section of the Ordinance to address some of those provisions of someone parking in a non-designated area or parking in a manner that blocks sight or creates a traffic hazard.

Mr. Holden stated that he thought it's another manner to reflect a vehicle being used specifically to be a sign and it would help if we are looking for tools or criteria that make that clear.

Ms. Maucher questioned if this is going to create problems for the small business that might have a vehicle for deliveries and they only deliver two or three times a day and the car doesn't go home, it stays at the place of business? In the Cold Stone example, they might do deliveries but not that frequently but when they do they want their signage on their vehicle. Responding to Ms. Maucher, Mr. Hugg stated that he thinks it actually does the opposite. He thinks that it clarifies the conditions under which those kinds of activities occur. One of the criteria is, does the vehicle move at all during normal business hours? There are numerous vehicles with business signs on them that are used for those types of purposes that are moved during the day and that clearly have a signage value but they are not being used solely for a sign. By having a criteria regarding if the vehicle moves during normal business hours, the operation of the business needs to reflect the fact that they are trying to separate out those vehicles that are backed into a space or backed up next to the highway and sit there. Clearly in some cases, they can become inoperable which there are other Code provisions to deal with that.

Mr. Holt questioned if there anything that you would give somebody that objected some of the things in this Ordinance? Maybe they have some reason for that sign on that vehicle. Is there an opportunity for them to come before the City or this group and express their concerns on why they feel that their sign is necessary? Responding to Mr. Holt, Mr. Hugg stated that the administration of this Ordinance would fall under the Code Enforcement section and if someone was cited then there are appeal mechanisms for seeking recourse to that situation. He doesn't

think that we need to specify that here since it is already provided for elsewhere in the Ordinance. Clearly, the idea here is that Code Enforcement Staff now has the opportunity to not have to make a hard judgment call on whether the vehicle is being solely used for signs or not.

Mr. Tolbert stated that all businesses pretty much have their names on their vehicles. He is thinking of one business in particular; the businesses that rent furniture. They have several vehicles and there are always vehicles parked near their facility. Even if they have vehicles moving, there are always vehicles parked near their facility and you would have to make a determination whether it's being used solely as a sign. When you have more than one vehicle there is always going to be vehicles parked near the facility. There are a number of businesses that have more than one vehicle that are parked near their business. You would have to make a determination whether it was a sign or an operable vehicle and that may be problematical at times. Responding to Mr. Tolbert, Mr. Hugg stated that is the intent of this modification to this Ordinance is to provide some criteria to help make that decision. There are businesses where the vehicles don't necessarily move everyday like people who do catering and things of that nature. A vehicle may sit for 3 or 4 days until the weekend when they have a catering job. Right now, there is no real criteria to help make a decision and what they are trying to do is provide some guidance for addressing those issues.

Mr. Tolbert stated that the way this amendment is written, will it help alleviate the problem? Responding to Mr. Tolbert, Mr. Hugg stated that they believe that it will because they believe that it will allow them to identify and address those vehicles that are clearly being used for signs without imposing an additional burden on others.

Mr. Tolbert opened a public hearing and after seeing no one wishing to speak, closed the public hearing.

Mr. Holden moved to recommend approval to City Council for MI-18-07 Text Amendments: Vehicle Signs (Zoning Ordinance, Article 5 §4) inclusive of Staff Amendment Number 1, seconded by Mrs. Welsh and the motion was carried 9-0 by roll call vote. Mr. Holden voting yes; due to Staff comments. Mr. Roach voting yes; for the reasons previously stated. Ms. Edwards voting yes; for the reasons previously stated. Mr. Holt voting yes; for the reasons previously stated. Mr. Baldwin voting yes. Dr. Jones voting yes; for the reasons previously stated. Mrs. Welsh voting yes; per the discussions tonight. Ms. Maucher voting yes; for the reasons previously stated. Mr. Tolbert voting yes; Staff gave them a thorough understanding of what this amendment is intending to do.

NEW BUSINESS

- 1) MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept – Update on the Meeting Task assigned to Staff by Planning Commission at June 18, 2018 regarding the request for Consideration by Planning Commission of an Architecture Concept for townhouse units and an Architecture Concept for single family detached dwellings (in a 55+ community format) with a request for removal of alleys within the Eden Hill Farm TND: Residential District. The property is zoned TND (Traditional Neighborhood Design Zone). The owner of record Eden Hill Residential, LLC. Property Address: area southeast of

intersection Wemyss Road and POW-MIA Parkway. Tax Parcels: areas on map ED-05-076.04. Council District 2.

Representative: None

Mrs. Melson-Williams stated that this item was part of the agenda in June 2018 where the Eden Hill Farm Residential District brought for the Planning Commission's consideration, a couple of architectural concepts related to the townhouse units and a proposal for some single family detached homes in a 55+ community format that would also seek to remove alleys in that Residential District. After a lengthy discussion at the Planning Commission meeting last month, the Planning Commission in their motion indicated that Planning Staff should meet with Ryan Homes prior to this meeting to discuss the application. They actually met with Ryan Homes and representatives on their design team on Monday, July 9th. They have a path forward that involves what Planning Staff can consider through an administrative process and that is focusing on the townhouse area of the community. There are some lot conversions from other unit types to townhouses that Staff can review through an Administrative Plan review process. With the discussion ultimately relating to the southern portion of the project where they hoped to do the 55+ community, they came to the conclusion that it in fact will need to be a formal application to the Planning Commission with a full Public Hearing in order to present a Revised Implementation Plan for that area of that TND Residential District. Along with that would be any proposed changes or amendments to the *Comprehensive Design Standards Manual* also known as the Pattern Book in order for them to present the concept that they hope to build in that area. Staff has met with them as requested by the Commission and she thinks that all sides have a clear understanding of the potential paths forward. At this point, it would be their burden to submit either administrative plans for review by Planning Staff or a future formal application to bring back before this body.

Dr. Jones questioned if the builder is on board with the path forward that was discussed at the meeting. There were some pretty definite statements made at the last Planning Commission meeting. Responding to Dr. Jones, Mrs. Melson-Williams stated that they met with representatives of the builder and the potential owner of the development. She is not aware if they are contractually obligated to the project at this point but Staff provided what the path forward would be to do something other than what is the recorded plan that is currently on file with the City.

Mr. Tolbert stated that the spokesman at the last meeting was very adamant about what they won't do so he doesn't know where we are with this application at this point.

Mr. Holt questioned if they think the applicant will come back before the Commission and give us an idea of what their plans are? Responding to Mr. Holt, Mr. Tolbert stated that they have heard Mrs. Melson-Williams' update and they can formally accept that update and wait to see what happens beyond this.

Dr. Jones moved to accept Report update on MI-18-10 Eden Hill Farm TND Residential District: Architecture Concept, seconded by Mrs. Welsh and the motion unanimously carried 9-0 by voice vote.

- 2) Project for Dover’s 2019 Comprehensive Plan
 - a. Update on Project Activities

 - b. Evaluation of 2008 Goals and Recommendations

Mrs. Melson-Williams stated that Staff has been working on the *2019 Comprehensive Plan*. They are getting very close to 100% participation by this board. The Historic District Commission is also very close to having 100% participation in the evaluation of the 2008 Goals and Recommendations. If you have not done the online survey that has been active for almost 4 weeks, please do so. They have done some outreach related to housing. Information on the real estate market was heard last week at Economic Development Committee. There was a discussion with that and Staff will be doing some follow-up. They did have the meeting in June with the educational people focusing on economic development. Staff at this point, is really trying to focus on their assigned chapters because they very shortly need to be writing like crazy.

Mr. Diaz stated that they have 287 survey responses as of this morning.

Mr. Hugg stated that they are going to cut the survey off at the end of July. The Central Delaware Chamber of Commerce volunteered to do a burst survey distribution for them last week so he expects to clear the 300 mark quickly. They are getting a lot of good response from across the community by age and incomes and those kinds of things. They will start analyzing that information in early August and Staff will be doing some map exercises to look at the existing plan and identify areas that they want to think a little more about or perhaps do a little more analysis on. They are making great progress.

Ms. Edwards questioned how we are getting the survey out to the public? Responding to Ms. Edwards, Mr. Diaz stated that the survey has been distributed a number of ways. They put physical paper copies in numerous City locations including the Library, the Pitts Center, the Customer Service Department at Weyandt Hall and City Hall. They also released it by news on the City’s Facebook page and it’s been echoed by a number of organizations. The currently plan also for their final push is to advertise it on Dover TV.

Mrs. Melson-William stated that you can get the link to the survey from the City’s website www.cityofdover.com. Through the Planning Office section there is a page that is specific to the *2019 Comprehensive Plan*. You will see some basic information about the project and it includes the survey link and there is also an email address to send messages to.

Meeting adjourned at 9:22 PM.

Sincerely,

**Kristen Mullaney
Secretary**

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103 South Bradford Street
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Kim I. Adams
President

Troy L. Adams, P.E.
Vice President

August 10, 2018

Dawn Melson-Williams, AICP
Principal Planner
City of Dover
Department of Planning & Inspections
P.O. Box 475
Dover, DE 19903

RE: Request for Extension
S-16-17 623 Fulton Street Parking Lot
Tax Parcel ED-05-076.08-01-13.00-00001

Dear Ms. Melson-Williams:

The City of Dover Planning Commission granted conditional approval on September 19, 2016 of the Site Development Site Plan S-16-17 623 Fulton Street Parking Lot. The project entailed the replacement of an existing parking lot with a 34-space asphalt parking lot with striping, parking bumpers, landscaping, and lighting.

The Planning Commission approval expires on September 30, 2018. On behalf of Harrington Commercial, LLC, a one-year extension is requested to address Planning Commission plan comments, seek Stormwater Management Plan approval from Kent Conservation District, and construct the parking lot.

Please contact me with any questions, comments, or further instructions. Thank you for considering this request.

Sincerely,
MOUNTAIN CONSULTING, INC.

A handwritten signature in blue ink, appearing to read "Troy L. Adams", is written over the printed name and title.

Troy L. Adams, P.E.
Vice President

Cc: Michael Harrington, Sr. - Harrington Commercial, LLC

MI-18-03 Text Amendments: Manufactured Housing and Land Lease Communities (Dover Code of Ordinances, Chapter 66 and Zoning Ordinance, Article 3, Section 8 and Article 12) – The Planning Commission on March 19,

2018 tabled action on the Review of Proposed Ordinance #2018-01 of Text Amendments to the *Dover Code of Ordinances*, Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities; to *Zoning Ordinance*, Article 3, Section 8- Manufactured Housing (MH) Zone; and to *Zoning Ordinance*, Article 12- Definitions.

- The proposed ordinance reorganizes and clarifies a portion of the updates to the Dover Code made in August 2016 through Ordinance #2016-16. The proposed ordinance also brings the updates into compliance with provisions of the *Delaware Code* related to manufactured housing and rental housing, particularly Title 25, Chapters 53, 55, 70, and 71. The updates affected include requirements for placing and licensing manufactured homes, standards for management and maintenance of land lease communities, taxation, and code enforcement. A distinction is also made between manufactured homes and permanently placed manufactured homes in the *Zoning Ordinance*.
- A copy of the original proposed Ordinance #2018-01 is available on the City's website www.cityofdover.com under the Government Heading: Ordinances, Resolutions & Tributes. <https://www.cityofdover.com/ordinances-and-resolutions>
- The Legislative, Finance, and Administration Committee reviewed the proposed Text Amendments on February 13, 2018 and the First Reading before City Council occurred on February 26, 2018. The Public Hearing before the Planning Commission occurred on March 19, 2018. The Public Hearing and Final Reading before City Council did not occur as anticipated on April 9, 2018; The agenda for the City Council Meeting of April 9, 2018 notes a recommendation to Postpone the Public Hearing and Final Reading of Proposed Ordinance #2018-01.
- The Planning Commission took action to table the Application seeking additional information. This package contains material previously presented as well as the results of Planning Office efforts to improve the proposed Ordinance. **Contents of this package include:**
 - A Report on proposed Staff Substitution #1 to the original Ordinance.
 - Proposed Staff Substitution #1, dated August 8, 2018.
 - DAC Report for Proposed Ordinance #2018-01 (presented at the March 19, 2018 Planning Commission meeting)
 - Original proposed Ordinance #2018-01 (presented at the March 19, 2018 meeting)
 - Excerpt from minutes of the March 19, 2018 Planning Commission meeting



PETITION TO AMEND TEXT of
Dover Code of Ordinances and Zoning Ordinance
Report to the
Dover Planning Commission
August 20, 2018

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances*, Chapter 66 – Manufactured Homes
- *Dover Code of Ordinances*, Appendix B: Zoning (*Zoning Ordinance*)
 - Article 3 – District Regulations, Section 8 – Manufactured Housing Zone
 - Article 12 – Definitions
- *Dover Code of Ordinances*, Appendix F – Fees and Fines, Chapter 26 Businesses, Article II – Licenses and Chapter 66 – Manufactured Homes, Mobile Homes, and Land Lease Communities

Summary of Amendment:

This new proposed amendment is a Staff Substitution #1 for the original proposed amendment presented to the Planning Commission on March 19, 2018. Both versions of the amendment reorganize and clarify a portion of the updates to the *Dover Code* made in August 2016 through Ordinance #2016-16. The proposed amendment also brings the updates into compliance with provisions of the *Delaware Code* related to manufactured housing and rental housing. The updates affected include requirements for placing and licensing manufactured homes, standards for management and maintenance of land lease communities, taxation, and code enforcement. The Staff Substitution #1 contains further refinements as detailed in the “Differences between Staff Substitution #1 and original proposed Ordinance” section below.

Ordinance Number:

Proposed Ordinance #2018-01
Staff Substitution #1 for Proposed Ordinance #2018-01

File Number:

MI-18-03 (Correction to File Number)

Development of the Ordinance

Following the August 8, 2016 adoption of revisions to the *Dover Code of Ordinances* and the *Zoning Ordinance* reforming code provisions related to manufactured housing, several members of the manufactured housing community came forward with concerns about the adopted ordinance. In the process of evaluating these concerns, Planning Staff identified a series of further improvements that could be made to Chapter 66 to better organize the section, clarify processes and enforcement, and ensure compliance with State law. Compliance was specifically

targeted toward *Delaware Code*, Title 25, Chapters 53, 55, 70, and 71. Staff also identified additional minor improvements in the *Zoning Ordinance* that would support the main series of changes in Chapter 66.

These improvements were collected into proposed Ordinance #2018-01 and presented to the Planning Commission at their meeting on March 19, 2018. However, at this meeting the Planning Commission chose to table the Ordinance, citing concerns expressed during the Public Hearing as well as their own concerns with the Ordinance. The Commission was concerned that the proposed Ordinance did not adequately address maintenance agreements involving homeowners or homeowners' associations that lacked resources to perform the required maintenance. Meanwhile, public testimony attested that the Ordinance allegedly did not meet the goal of achieving compliance with State law. The Commission asked Planning Staff to address the outstanding concerns before bringing the Ordinance back for consideration.

The Commission lifted the Ordinance from the table at their April 16, 2018 meeting, in order to formally defer consideration until their June 18, 2018 meeting. The Planning Office presented an update on the ongoing revisions to the Ordinance at the June meeting, and asked for further deferral until August 20, 2018 in order to finish the revisions. This request was granted.

Following further research into the sections of the *Delaware Code* mentioned above, plus detailed review of written and verbal testimony given at the Public Hearing, Planning Staff worked on a substantial Staff Amendment #2 to the Ordinance (Staff Amendment #1 being a smaller amendment already proposed by the time of the March 2018 meeting). Due to the complexity of this second Staff Amendment, it was ultimately recreated as a complete Staff Substitution #1 of the original proposed Ordinance. The Staff Substitution #1 in its entirety is attached to this Report.

The Planning Commission is to review the Staff Substitution #1 to determine if it addresses all the previous concerns from the Commissioners and the public. The Planning Commission is to take action on the Staff Substitution #1 in order to provide a recommendation to City Council. The Planning Commission's recommendation will be forwarded to City Council for scheduling at a future City Council meeting to conduct a Public Hearing and take Final Action on the proposed Ordinance.

Differences between Staff Substitution #1 and original proposed Ordinance #2018-01

Key differences between the original proposed Ordinance and the Staff Substitution #1 include the following:

1. In Section 66-1 – Purpose Statement, the Substitution adds a line stating that the Ordinance is intended to supplement, and not replace, the State regulations.
2. In Section 66-2 – Definitions, the Substitution changes some of the definitions so they are based on the State definitions of the same terms. The “Land Lease Community” definition clarifies that the City would consider a Manufactured Home Park a type of Land Lease Community.
3. In Section 66-3 – Manufactured and mobile homes, the Substitution clarifies that City Building Inspectors must be licensed by the State, and that installation shall be by a State-licensed installer.
4. In Section 66-4 – Land lease communities, the Substitution rewrites the provisions on

Landscaping and Utilities so they are based on State requirements.

5. In Section 66-4 – Land lease communities, the Substitution clarifies the section on delegation of maintenance duties to state that this may be done through rental agreements and/or property management contracts. In order to address the issue raised by the Commissioners concerning delegates potentially being unable to follow through on their duties, the Substitution refers back to provisions of the *Delaware Code* stating what provisions may not legally be introduced by a community owner into an agreement.
6. In Section 66-4 – Land lease communities, the Substitution removes the implication that a community’s office must be at the site of the land home community. This is intended to reduce the burden on small communities that may not be able to support an on-site office. There must still be an office of some kind accessible to residents.
7. In Section 66-4 – Land lease communities, the Substitution replaces the term “lease record” with “homeowner record” and specifies the limited information to be collected. It clarifies that the intent of this section is to allow the City to identify homeowners for the purposes of keeping tax records, keeping license records, and facilitating code enforcement.
8. In Section 66-6 – Enforcement and Penalties, the Substitution clarifies that the process for suspending or revoking the license for a land lease community, if such a step is necessary, shall be the same as that for all other businesses in the City.
9. The Substitution adds a new subsection 66-8 addressing preemption and severability.
10. The Substitution duplicates the new definitions in Chapter 66 to also be in the *Zoning Ordinance*, Article 12 – Definitions.

Planning Review and Recommendations:

Planning Staff developed the original proposed Ordinance #2018-01 regarding Manufactured Housing and Land Lease Communities and in March recommended the adoption of the original. However, at the present time Planning Staff instead recommends adoption of Staff Substitute #1 for Ordinance #2018-01. Staff makes this new recommendation on the basis of the numerous improvements intended to further clarify the intent of the Ordinance, address the concerns of the Commissioners and the public, and ensure the goal of meeting state law is achieved.

In March the Planning Office received comments from other Development Advisory Committee (DAC) members and took them under review. DAC Comments led to the formulation of Staff Amendment #1, the details of which are contained in the March 9, 2018 DAC Report for the original proposed Ordinance. Staff Amendment #1 focused on adding “stormwater facilities” to the utility listing. It is noted that Staff Substitution #1 incorporates Staff Amendment #1, and therefore, if it is adopted, separate adoption of Staff Amendment #1 is not required. Adoption of the original proposed Ordinance would require separate action regarding Staff Amendment #1.

Attachments:

- Staff Substitution #1, dated August 8, 2018
- DAC Report for Proposed Ordinance #2018-01 (presented at March 19, 2018 meeting)
- Original proposed Ordinance #2018-01 (presented at March 19, 2018 meeting)
- Excerpt from minutes of the March 19, 2018 Planning Commission meeting

1 **Staff Substitution #1**

2 **August 8, 2018**

3 Chapter 66 - MANUFACTURED HOMES, MOBILE HOMES, AND LAND LEASE COMMUNITIES

4 **Sec. 66-1. – Purpose Statement.**

5 **The City of Dover recognizes that manufactured homes are a unique housing type with their own**
6 **history of placement and ownership traditions arising from their origins as mobile homes. A**
7 **modern manufactured home does not resemble a vehicle, and once placed is rarely moved.**
8 **However, most manufactured homes are owned as if they were vehicles, separate from the land**
9 **they are placed on, and may theoretically be moved at any time. Because of this the city**
10 **recognizes that consistent standards are needed for placement, licensing, and tracking of**
11 **manufactured homes, in order to ensure the homes' orderly movement into, out of, and around**
12 **the city.**

13 **The city further recognizes that land lease communities, which may give ground lease to**
14 **manufactured homes or other types of housing, typify a use of land which does not align perfectly**
15 **with either apartments or residential subdivisions. Because of this, areas of responsibility on the**
16 **part of residents, owners, and the city with regard to maintenance, communication, and taxation**
17 **can be unclear without the adoption of consistent standards governing these areas of**
18 **responsibility. The city recognizes that where responsibility is not clearly claimed detrimental**
19 **conditions can arise for residents.**

20 **This chapter therefore lays out consistent standards needed for manufactured homes and land**
21 **lease communities, while updating and consolidating earlier city regulations regarding mobile**
22 **homes and mobile home parks. The standards are intended to be applicable to all land lease**
23 **communities currently in the city or which may be established in the future. They are also**
24 **intended to cover both manufactured homes and permanently placed manufactured homes, and**
25 **the issues unique to each. They are intended to supplement, rather than replace, all state laws**
26 **regulating manufactured homes, including but not limited to those found in Title 25, Chapter 70,**
27 **and Title 24, Chapter 44 of the Delaware Code.**

28 **Sec. ~~66-1~~ 66-2 - Definitions.**

29 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed
30 to them in this section, except where the context clearly indicates a different meaning:

31 *Land lease community* means a residential development typified by single ownership of the land within
32 the development, with the landowner retaining the rights of ownership. Home sites or individual lots within
33 the community are leased to individual homeowners, who retain customary leasehold rights. **A**
34 **manufactured home park is considered a type, but not the only type, of land lease community.**

35 *Land lease community operator* means any person designated by contractual arrangement
36 with the land lease community owner to supervise or maintain a land lease community and interact
37 with its residents.

38 *Land lease community owner* means the owner of 2 or more home sites offered for rent within
39 a land lease community. It includes a lessor, sublessor, park owner or receiver of 2 or more home
40 sites offered for rent, as well as any person, other than a lender not in possession, who directly or

41 indirectly receives rents for 2 or more home sites offered for rent and who has no obligation to
42 deliver such rents to another person.

43 ~~**Manufactured home means a factory-built housing unit designed and constructed to meet the**~~
44 ~~**Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and**~~
45 ~~**Urban Development (HUD) Code. A manufactured home is built on a chassis that supports the**~~
46 ~~**structural integrity of the home and to allow transport to the site. Factory-built units built to meet**~~
47 ~~**the HUD Code and constructed after the code took effect on June 15, 1976 are classified as**~~
48 ~~**"manufactured homes."**~~

49 ~~**Mobile home means a factory-built housing unit constructed on a chassis and completed**~~
50 ~~**before June 15, 1976. Prior to the HUD code, mobile homes were not subject to uniform construction**~~
51 ~~**or safety standards.**~~

52 **Manufactured home** means a factory-built, single-family dwelling:

53 a. Transportable in 1 or more sections, which is either 8 body feet or more in width and 40
54 body feet or more in length, or, when erected on site, has more than 400 square feet in living
55 area; and

56 b. Designed to be used as a year-round dwelling when connected to the required utilities; and

57 c. Manufactured after June 15, 1976, and built in accordance with manufactured home
58 construction requirements promulgated by the federal Department of Housing and Urban
59 Development (The HUD Code).

60 **Mobile home** means a factory-built, single-family dwelling:

61 a. Transportable in 1 or more sections, which is either 8 body feet or more in width and 40
62 body feet or more in length, or, when erected on site, has more than 400 square feet in living
63 area; and

64 b. Designed to be used as a year-round dwelling when connected to the required utilities; and

65 c. Manufactured before June 15, 1976, and not built in accordance with manufactured home
66 construction requirements promulgated by the federal Department of Housing and Urban
67 Development (The HUD Code). Prior to the HUD code, mobile homes were not subject to
68 uniform construction or safety standards.

69 *Owner of a manufactured home or mobile home* means the person designated in the vehicle title of
70 the manufactured home or mobile home, whether the title is issued by this state or by some other state.

71 *Owner of a permanently placed manufactured home* means the person designated in the vehicle or
72 real property title of the permanently placed manufactured home, whether the title is issued by this state or
73 by some other state.

74 *Permanently placed manufactured home* means a ~~**manufactured home factory-built housing unit**~~
75 ~~**designed and constructed to meet the Manufactured Home Construction and Safety Standards of**~~
76 ~~**the U.S. Department of Housing and Urban Development (HUD) Code, and**~~ that has ~~**also**~~ been placed
77 upon a permanent, unmovable foundation.

78 **Utility** means a service provided by a land lease community owner, the city, or others to a
79 tenant for a commodity such as water, sewer, electricity, fuel, propane, cable television or trash.

80 (Ord. of 2-23-1970, § 2; Code 1981, § 12-1; Ord. of 11-10-1986, § 1; Ord. No. [2016-16](#), 8-8-
81 2016)

82 Sec. ~~66-2.~~ 66-3 ~~-Licenses.~~ **Manufactured and mobile homes.**

83 (a) **Placement permit.** Every owner of a manufactured home shall apply for and obtain from the city
84 planner or his/her authorized agent a placement permit for such manufactured home prior to

85 placement of the home within the city. The owner of the manufactured home shall pay a fee for
86 such permit as provided for in Appendix F-Fees and Fines. No certificate of occupancy shall be
87 issued for a newly placed manufactured home that has not also been issued a placement permit.

88 (b) *Inspection.* Prior to the issuance of a certificate of occupancy for any manufactured home, the
89 home shall pass inspection by a city building inspector licensed as a manufactured home
90 inspector by the state. The owner of the manufactured home shall cause a manufactured home
91 installer licensed by the state to firmly attach the home to the ground by means of a permanent
92 foundation or anchors, and cause any open space beneath the unit to be skirted or enclosed
93 with material approved by the building inspector.

94 (c) *License.* The owner of any mobile home or manufactured home that is not placed on a
95 permanent foundation shall obtain an annual license for it. The owner of the mobile home or
96 manufactured home shall pay an annual fee for such license as provided for in Appendix F-Fees
97 and Fines. If such manufactured home is newly moved into the city, the owner of the
98 manufactured home shall obtain the license and shall pay the license fee within seven days of
99 issuance of a certificate of occupancy for the home. Payment of the license fee shall be prorated
100 on a quarterly basis for each fractional part of a year during which the manufactured home is in
101 the city.

102 (d) *Conditions for license.* No license for a new manufactured home shall be issued until the home
103 has passed inspection and received a certificate of occupancy as required by this section.

104 (e) *Moving within or out of city.* When the owner of a mobile home or manufactured home removes
105 the home from its current site or lot, the owner shall obtain a demolition permit for the removal.

106 (f) *Use of city utilities.* Owners of all types of manufactured homes shall coordinate with city
107 departments during the permitting and licensing process regarding the appropriate times to
108 transfer responsibility for utilities and activate service.

109 ~~(a) *Required fee.* The owner of a mobile home or manufactured home that is not to be permanently
110 placed shall obtain an annual license for it and shall pay a fee for such license as provided for
111 in Appendix F—Fees and Fines.~~

112 ~~(b) *Payment; penalties.* Such license shall be obtained and the license fee paid by August 1 of
113 each year and if such fee is not paid before September 1 of such year, then, in addition to any
114 penalty incurred pursuant to Appendix F—Fees and Fines, a penalty fee of ten percent per
115 month shall accrue on the unpaid balance of the license fee.~~

116 ~~(c) *Moving into city.* Upon the moving of a manufactured home into the city, if the manufactured
117 home requires a license it shall be obtained and the license fee paid the within seven days.
118 Payment of such license fee shall be prorated on a quarterly basis for each fractional part of a
119 year during which the manufactured home is in the city.~~

120 ~~(d) *Required fee for landowners.* The owner of any land leased out as part of a land lease
121 community shall obtain an annual land lease community operator business license under the
122 provisions of Chapter 26—Businesses.~~

123 (Ord. of 2-23-1970, § 2; Ord. of 5-24-1976; Ord. of 3-27-1980; Code 1981, § 12-2; Ord. of 8-8-
124 1988; Ord. of 3-22-1993; Ord. No. 2009-09, 6-22-2009; Ord. No. [2016-16](#), 8-8-2016)

125 ~~Sec. 66-3.—Real property taxes.~~

126 ~~(a) A permanently placed manufactured home as defined in section 66-1, and the lot upon
127 which it is located shall be considered as being real property for purposes of valuation,
128 assessment and taxation in accordance with section 47 of the Charter.~~

129 (Code 1981, § 12-2.1; Ord. of 11-10-1986, § 2; Ord. No. [2016-16](#), 8-8-2016)

130 ~~Sec. 66-4.—Placement permit.~~

131 ~~Every owner of a manufactured home, shall apply for and obtain from the city planner or his/her~~
132 ~~authorized agent a placement permit for such manufactured home. The city planner or his/her~~
133 ~~authorized agent shall issue no placement permit until the license fee required in this chapter is~~
134 ~~paid in full.~~

135 (Ord. of 2-23-1970, §§ 3, 6; Ord. of 5-24-1976; Code 1981, § 12-3; Ord. No. [2016-16](#), 8-8-2016)

136 Sec. ~~66-5.~~ ~~66-4.- Duties of land lease community owners and operators.~~ Land lease communities.

137 (a) The following regulations shall apply to ~~owners and operators of all land lease communities:~~ the
138 **maintenance of land lease communities:**

139 i. *Private road access.* It shall be the responsibility of land lease community owners ~~and operators~~
140 to maintain all private streets, driveway access to such streets, access to fire hydrants, and
141 access to central mailboxes so as to be clear from obstructions, including but not limited to
142 potholes, snow piles, and debris.

143 ii. *Debris clearance.* It shall be the responsibility of land lease community owners ~~and operators~~ to
144 ensure that all facilities and common areas within the community are kept in good repair and
145 maintained in such a manner as to prevent the accumulation of materials which could cause a
146 fire hazard or would cause insect or rodent breeding and harborage.

147 ~~iii. *Landscaping.* All trees, shrubbery, lawns, and other landscaping features within the~~
148 ~~community shall be maintained by the land lease community operator owner to be in~~
149 ~~healthy condition at all times.~~

150 **iii. *Landscaping.* The land lease community owner shall keep the community free of species**
151 **of weeds or plant growth which are noxious or detrimental to the health of the residents.**
152 **In addition, the land lease community owner shall maintain, care for, and, if necessary,**
153 **remove any trees planted within the community that are over 25 feet in height or have a**
154 **main stem/trunk over 6 inches in diameter. Maintenance shall be performed per standard**
155 **horticultural practices in accordance with the standards a set forth by the American**
156 **Association of Nurserymen, and shall not require removal of any plant material normally**
157 **produced by the tree as part of its lifecycle. The landlord must respect the privacy of**
158 **tenants and not enter any rented lot to maintain, care for, and/or remove landscaping**
159 **without the permission of the tenant or an adult resident unless emergency circumstances**
160 **exist and entry is required to prevent injury to person or damage to property.**

161 iv. *Utilities.* ~~All water, sewer, electric, and gas lines and connections intended to serve~~
162 ~~common areas or the private property of tenants within the community shall be kept in~~
163 ~~good repair at all times by the land lease community operator.~~ The land lease community
164 owner shall keep all water, electrical, plumbing, gas, septic, sewer, and other utilities they
165 provide to tenants in good working order. Stormwater management facilities shall be
166 maintained so as to be free of blockage and to prevent the accumulation of standing water **that**
167 **does not dissipate within 48 hours, except in facilities approved for retention of water.**
168 **These utilities and facilities shall be repaired within 48 hours of written notification of a**
169 **maintenance problem, or as soon thereafter as is practicable if a repair within 48 hours is**
170 **not practicable.** Community owners shall coordinate with the City of Dover regarding utility
171 services and equipment.

172 v. *Delegation of maintenance duties.* Maintenance responsibilities detailed in subsections i.
173 through iv. of Section 66-3(a) may be delegated by the land lease community owner to
174 leaseholders, a homeowner's association, a land lease community operator, or other
175 parties, provided that the delegated party's specific responsibilities are detailed in a rental
176 agreement, property management contract, or other contract as appropriate. All

177 maintenance responsibilities not so delegated shall be retained by the land lease
178 community owner. All maintenance services not permitted under state law to be delegated
179 to leaseholders or homeowners' associations, due to state requirements for the contents
180 of rental agreements, shall also be retained by the land lease community owner, unless
181 delegated to a land lease community operator.

182 (b) The following regulations shall be the reporting, record-keeping, and licensing requirements of
183 land lease communities:

184 ~~v.i. Office hours. The land lease community operator shall be present on site at a minimum~~
185 ~~during regular business hours, so as to facilitate communication between tenants of the~~
186 ~~community and the owner, and a 24-hour emergency contact shall be available to~~
187 ~~residents.~~ To facilitate communication between tenants of the community and the owner,
188 the land lease community owner or operator shall be present at an office accessible to
189 tenants during regular, fixed hours to be communicated to residents and posted at the
190 office. The office hours shall be no less than 20 hours per week and shall not be between
191 the hours of midnight and 7am. A 24-hour emergency contact shall also be available to
192 residents.

193 ~~vi.ii. Receipt for lot payment.~~ The land lease community operator ~~or operator~~ shall provide a written
194 receipt or electronic receipt at the time a cash payment for rent payment has been made.
195 ~~regardless of the form of payment.~~ If a land lease community owner accepts a form of
196 payment other than cash, the community owner shall, within 2 days, give to the tenant a
197 receipt for that payment. The community owner or operator shall, for a period of 3 years,
198 maintain a record of all cash receipts for rent.

199 iii. *Homeowner Record.* To assist in keeping city license records and tax records up to date,
200 and to assist in code enforcement, land lease community owners who lease land to two or
201 more persons for home sites shall maintain a record of all persons owning homes on their
202 land, specifying each home's address, the name of the owner of each manufactured home,
203 and each homeowner's address, if different from the home address. This record shall be
204 reported to the city planner before July 1 of each year, and shall also be open for
205 inspection by the city planner at all other reasonable times.

206 vi. *Required license for landowners.* The owner of any land leased out as part of a land lease
207 community shall obtain an annual land lease community operator business license under
208 the provisions of Chapter 26—Businesses, or direct the land lease community operator to
209 obtain this license. Only one business license shall be required per land lease community.
210 The fee for such license shall be based on the total number of lots or home sites in the
211 community, including both vacant and occupied lots and sites.

212 ~~(b) The following regulations shall additionally apply to owners and operators of land lease~~
213 ~~communities leasing land to manufactured homes:~~

214 ~~i. Documents to manufactured home owners. Copies of this chapter and placement permit~~
215 ~~application forms shall be furnished to each land lease community owner, who shall give~~
216 ~~a copy of the same to every manufactured home owner who moves a manufactured home~~
217 ~~into the community, before the 15th day of the next succeeding month after placement of~~
218 ~~the manufactured home.~~

219 ~~ii. Enforcement. It shall be the responsibility of land lease community owners and operators~~
220 ~~to ensure that all mobile homes and manufactured homes placed on their land maintain a~~
221 ~~current license under section 66-2.~~

222 ~~iii. Lease record; report. Land lease community owners who lease land to two or more~~
223 ~~persons for siting manufactured homes shall maintain a lease record, which shall be open~~
224 ~~for inspection at all reasonable times by the city planner. Before June 1 of each year, the~~
225 ~~land lease community owner shall report to the city planner the names and addresses of~~
226 ~~all persons having manufactured homes on his land.~~

227 ~~iv.—Sale of home. Before a home is sold by the homeowner, home owner's estate, foreclosure,~~
228 ~~eviction or other means, the City of Dover must be notified and all delinquent taxes, fees,~~
229 ~~or other charges must be paid.~~

230 ~~v.—The land lease community owner must notify the City of Dover if the community is placed~~
231 ~~for sale.~~

232 ~~(c) The following shall be considered appropriate methods of redress if the duties outlined in this~~
233 ~~section are not fulfilled:~~

234 ~~i.—Any land lease community owner found to be in violation of the provisions of this section,~~
235 ~~regardless of corrective actions taken, shall be assessed a fine as provided for in~~
236 ~~Appendix F—Fees and Fines. Any such fine shall be in addition to any charges imposed~~
237 ~~upon the violator in accordance with subsection (c)(ii) below.~~

238 ~~ii.—If required, the City of Dover may perform maintenance in the owner's stead following~~
239 ~~official notice, and place a lien on the property to recover costs, including a 15 percent~~
240 ~~administrative charge.~~

241 ~~iii.—Repeated failure to perform the required duties shall be cause to take action upon an~~
242 ~~owner's land lease community operator license in accordance with the provisions of~~
243 ~~Chapter 26—Businesses, Article II, Section 26-59.~~

244

245 **Sec. 66-5. - Real property taxes.**

246 A permanently placed manufactured home as defined in section 66-2, and the lot upon which it is
247 located shall be considered as being real property for purposes of valuation, assessment and
248 taxation in accordance with section 47 of the Charter. Manufactured homes that are not permanently
249 placed shall not be taxed but shall pay the annual license fee required by this chapter in lieu of
250 taxes.

251

252 **Sec. 66-6. – Enforcement and penalties.**

253 **(a) Licenses and permits.** Enforcement of licensing and permitting requirements shall be as
254 follows:

255 i. **Obtaining manufactured home licenses.** If the owner of a mobile home or manufactured
256 home not permanently placed fails to obtain or renew the annual license required by this
257 chapter, a fine pursuant to Appendix F-Fees and Fines may be assessed on the owner of
258 the home, if the home has not been removed from the city.

259 ii. **Obtaining placement permits.** An owner of a manufactured home who places their home
260 without obtaining a placement permit to do so shall have the standard penalties imposed
261 for failure to obtain a building permit as outlined in Chapter 22- Buildings and Building
262 Regulations of the Dover Code.

263 iii. **Obtaining land lease community operator business licenses.** A land lease community
264 owner who does not obtain an annual business license as required by this chapter shall
265 have the standard penalties imposed for failure to obtain a business license as outlined in
266 Chapter 26- Businesses of the Dover Code.

267 **(b) Land lease community maintenance requirements.** Enforcement of community maintenance
268 requirements shall be as follows:

269 i. Any land lease community owner found to be in violation of the provisions of Section 66-
270 4(a) may be assessed a fine pursuant to Appendix F-Fees and Fines. If required, the City of

271 Dover may perform maintenance to correct the violation in the owner’s stead, and add the
272 cost of maintenance, including a 15 percent administrative charge, to the fine to be
273 assessed.

274 ii. If a land-lease community owner has via rental agreement, property management contract,
275 or other contractual agreement delegated maintenance responsibilities over the portion of
276 the property in violation to the owner of a manufactured home, any fines assessed
277 pursuant to subsections (b)(i) and (b)(ii) above shall be imposed on the owner of the home.

278 (c) *Reporting and record-keeping requirements.* Enforcement of reporting and record-keeping
279 requirements shall be as follows:

280 i. *Provision of homeowner record.* If the owner of a land-lease community fails to provide a
281 homeowner record before July 1 of the year, a fine pursuant to Appendix F-Fees and Fines
282 may be assessed on the owner of the land-lease community.

283 ii. *Provision of office hours.* The City of Dover may inspect the office of a land lease
284 community, and upon finding that hours are not posted, or a representative is not on site
285 during posted office hours, assess a fine pursuant to Appendix F-Fees and Fines. A finding
286 that a land lease community’s 24-hour emergency line is not functioning may also be cause
287 to assess the same fine.

288 iii. *Provision of receipts.* If the owner of a manufactured home requests a receipt for payment
289 of rent from a land lease community owner or operator and does not receive one within 2
290 days, the owner of the manufactured home may ask the City of Dover to request the same.
291 If a receipt is not provided to the city within an additional 7 days, a fine pursuant to
292 Appendix F-Fees and Fines may be assessed on the owner of the land-lease community.

293 (d) *Official notice.* As part of any fine assessed pursuant to Section 66-6, the City of Dover shall
294 give official notice to the violator. Policy and procedures for timing of official notices and fines
295 shall be developed by the Planning and Inspections Department.

296 (e) *Action on business licenses.* If violation of any city ordinance by a land lease community is of
297 a nature that the community’s business license may need to be suspended or revoked, the
298 procedures given in Chapter 26—Businesses, Article II, Sections 26-59 through 26-65 applying
299 to all city businesses shall be adhered to. Summary action on a business license shall not be
300 taken unless the conduct of the licensee, or any associated agent or employee, is so inimical to
301 the public health, safety, and general welfare as to constitute a nuisance and thus give rise to
302 an emergency.

303 (Ord. No. [2016-16](#), 8-8-2016)

304 **Editor's note**— Ord. No. [2016-16](#), adopted August 8, 2016, in effect repealed § 66-5 and
305 enacted a new § 66-5 as set out herein. Former § 66-5 pertained to duties of mobile home park
306 owners and derived from Ord. of 2-23-1970 and the Code of 1981.

307 ~~Sec. 66-6.—Anchoring and skirting.~~

308 ~~Prior to the issuance of a certificate of occupancy for any manufactured home not placed on a~~
309 ~~permanent foundation, the manufactured home shall be firmly anchored to the ground and the open~~
310 ~~space beneath the unit shall be skirted with approved material in accordance with the requirements~~
311 ~~of the building inspector.~~

312 (Ord. of 9-13-1976; Code 1981, § 12-5; Ord. No. [2016-16](#), 8-8-2016)

313 ~~Sec. 66-7.—Use of city utilities.~~

314 ~~The owner or occupant of any mobile home or manufactured home shall not be entitled to~~
 315 ~~receive city utilities until the license fee required in this chapter is paid in full, and city personnel~~
 316 ~~shall refuse to provide sewage, water and electricity to the mobile home or manufactured home~~
 317 ~~until satisfactory proof is furnished that such license fee has been paid.~~

318 (Ord. of 7-28-1975; Code 1981, § 12-6; Ord. No. [2016-16](#), 8-8-2016)

319 Sec. ~~66-8~~. **66-7**.- Exemptions.

320 This chapter shall not apply to:

- 321 (1) *Dealers*. Unoccupied manufactured homes located on a dealer's display lot; or
- 322 (2) *Manufactured homes in transit*. Unoccupied manufactured homes temporarily occupying the
- 323 public right-of-way prior to placement on a lot or home site.

324 **Sec. 66-8. –Preemption and severability.**

325 (a) In the event of any conflict between the requirements of this ordinance and the
 326 requirements of the Delaware Code, Title 25, Chapter 70- Manufactured Homes and
 327 Manufactured Home Communities, or Title 24, Chapter 44- Manufactured Home
 328 Installation, or any other section of the Delaware Code, the requirements of the state code
 329 shall prevail.

330
 331 (b) Should any section or provision of this ordinance be decided by the courts to be
 332 unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a
 333 whole or any part thereof other than the part so decided to be unconstitutional or invalid.

334

335 (Ord. of 2-23-1970, § 8; Code 1981, § 12-7; Ord. No. [2016-16](#), 8-8-2016)

336 Appendix F

337 Chapter 66. - Manufactured Homes, Mobile Homes, and Land Lease Communities

Chapter 66. Manufactured Homes, Mobile Homes, and Land Lease Communities	Fees and Fines
Sec. 66-2 . 66-3 Licenses Manufactured and mobile homes.	
Subsec. (a) Required fee from homeowner	\$45.00 each license \$50.00 each one-time placement permit
Subsec. (c) Required fee from homeowner	\$45.00 each license annually

—Subsec. (b) Payment; penalties	A fine of not less than \$50.00 and a penalty fee of ten percent per month shall accrue on the unpaid balance of the license fee
Sec. 66-5. 66-6 Duties of Land Lease Community Owners and Operators Enforcement and penalties	
—Subsec. (c)(i) Failure to perform required duties Subsection (a)(i) Failure to obtain manufactured home license	A fine of not less than \$50.00 in addition to any charges imposed to cover cost of maintenance by the City A fine of not less than \$25.00
Subsect. (b)(i) Failure to fulfill maintenance requirements	A fine of not less than \$25.00 in addition to any charges imposed to cover cost of maintenance by the City
Subsec. 66-5 (c)(ii) (b)(i) Cost of maintenance by the city	\$75.00 per hour for such work that must be done to render the property in compliance with this article Chapter 66 Sec. 66-4, plus a 15% administrative charge
Subsec. (c)(i) Failure to provide lease record	A fine of not less than \$25.00 and a penalty fee of ten percent per month shall accrue for each month the lease record is not provided.
Subsec. (c)(ii) Failure to provide contact for residents	A fine of not less than \$25.00; the fine may be applied cumulatively or per violation instance
Subsec. (c)(iii) Failure to provide receipt	A fine of not less than \$25.00; the fine may be applied cumulatively or per violation instance

338

339

340 Section 8. - Manufactured housing (MH) zone.^[2]

341 8.1 *Uses permitted.* In a manufactured housing zone, no building or premises shall be used, and no
 342 building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for
 343 any uses, except the following:

344 8.11 Manufactured homes on individual lots, held in any type of ownership.

345 8.12 Multiple manufactured homes on a lot, provided that:

346 (a) The lot is operated as a condominium, **including but not limited to condominiums**
 347 **formed pursuant to 25 DelCode, Chapter 71**; or

- 348 (b) The lot is operated as a land lease community; and
349 (c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for
350 rent or sale on the lot to accommodate 15 manufactured homes. Such home sites need
351 not be expressly delineated but must be improved so as to be complete and ready for
352 occupancy by a manufactured home. **There shall be no mixing of manufactured
353 homes and permanently placed manufactured homes on one lot.**

354 **8.13 Permanently placed manufactured homes on individual lots, provided that the home
355 and the lot are under common ownership.**

356 **8.14 Multiple permanently placed manufactured homes on a lot, provided that:**

- 357 (a) **The lot is operated as a condominium including but not limited to condominiums
358 formed pursuant to 25 DelCode, Chapter 71; or**
359 (b) **The lot is operated as a land lease community; and**
360 (c) **There are at least 15 permanently placed manufactured homes on the lot, or else
361 sufficient home sites for rent or sale on the lot to accommodate 15 permanently
362 placed manufactured homes. Such home sites need not be expressly delineated
363 but must be improved so as to be complete and ready for occupancy by a
364 permanently placed manufactured home. There shall be no mixing of
365 manufactured homes and permanently placed manufactured homes on one lot.**

366 ~~8.13~~ **8.15** One-family detached homes on individual lots, held in any type of ownership.

367 8.2 *Conditional uses* . Conditional uses shall be consistent with those conditionally permitted in the
368 one-family residence zones.

369 8.3 *Accessory uses* . Accessory uses shall be consistent with those permitted in the one-family
370 residence zones, with the following additions and exceptions:

371 8.31 Management facilities. The following shall be permitted accessory to lots providing home
372 sites for multiple manufactured homes:

- 373 (a) Management offices with rooms for the usual office furniture and supplies, limited to
374 one per lot;
375 (b) Storage space for utility connection supplies in quantity, manufactured home
376 accessories and maintenance materials and equipment;
377 (c) Laundry facilities equipped with washing machines and dryers;
378 (d) Community building facilities, including indoor recreation areas;
379 (e) Commercial establishments consistent with uses permitted in the C-1 neighborhood
380 commercial zone, limited to one such establishment per lot;
381 (f) One-family detached homes intended for the use of a manager or caretaker, limited to
382 one such dwelling per lot.

383 8.32 Accessory home occupations. Accessory home occupations shall be permitted consistent
384 with the conditions outlined for home occupations in the one-family residence zones, with the
385 exception that no home occupation shall be permitted if not also permitted by the owner of the lot
386 on which the home is sited.

387 8.4 *Uses prohibited* . The following uses are specifically prohibited:

388 8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such
389 structures or vehicles located within the zone and being used as dwellings shall upon the effective
390 date of this ordinance be deemed non-conforming uses in accordance with article 7.

391 8.42 Any other kind of factory-built housing that does not meet the Manufactured Home
392 Construction and Safety Standards of the U.S. Department of Housing and Urban Development
393 (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is
394 constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building
395 Regulations. Any such housing located within the zone and being used as dwellings shall upon
396 the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

397 8.5 *Minimum occupation length* . No lot or home site within the manufactured housing zone reserved
398 for occupation by a manufactured home shall be leased or occupied for residential use except for
399 periods of 30 consecutive days or more.

400 8.6 *Land lease communities* . The following regulations shall apply to land lease communities within
401 the MH zone:

402 8.61 The entire land area occupied by a land lease community, regardless of the number of
403 home sites or individual lots therein, shall be maintained in single ownership, or if in multiple
404 ownership, under the provisions of the laws of the state dealing with unit properties and
405 condominiums.

406 8.62 *Changes to site plan*. After initial site development plan approval of a land lease community,
407 reapproval for the entire community shall not be required prior to the issuance of building permits
408 for alterations to individual manufactured homes, or their accessory buildings such as storage
409 areas and patios, which, in the judgement of the city planner, do not materially alter the site
410 development plan approval by the planning commission and are requested as adjustments to the
411 individual manufactured home sites or lots leased by an individual family and designed for the
412 convenience and comfort of the individual lessee.

413 8.7 *Performance Standards* . All uses are subject to performance standards as set forth in article 5,
414 section 8.

415 8.8 *Site development plan approval* . Site development plan approval in accordance with article 10,
416 section 2 hereof shall be required prior to the issuance of building permits for the erection or
417 enlargement of all structures and related accessory structures. Such approval shall also be required
418 prior to the issuance of certificates of occupancy for a change of use.

419 8.81 For purposes of preparing a site development plan for approval by the planning
420 commission, and all subsequent improvements, alterations or additions, the applicant shall
421 conform to current submission requirements and site development standards as set forth by the
422 National Fire Protection Association publication 501A,"Standard for Fire Safety Criteria for
423 Manufactured Home Installations, Sites, and Communities." Where applicable, the approving
424 authority shall be the fire marshal's office.

425 8.82 No site development plan proposing the siting of a manufactured home outside of a land
426 lease community shall be approved unless the plan shows the manufactured home is to be
427 permanently placed, as defined in the Dover Code of Ordinances, Chapter 66—Manufactured
428 Homes, Mobile Homes, and Land Lease Communities.

429 8.9 *Maximum density* . The gross residential density in an MH zone shall not exceed six dwelling
430 units per acre.

431 8.10 *Signs* . Signs shall meet the regulations found in Article 5—Supplementary Regulations, Section
432 4—Supplementary Sign Regulations.

433 (Ord. No. [2016-16](#), 8-8-2016)

434 Footnotes:

435 --- (2) ---

436 **Editor's note**— Ord. No. [2016-16](#), adopted August 8, 2016, in effect, repealed § 8 and enacted a new §
437 8 as set out herein. Former § 8 pertained to similar subject matter and derived from Ord. of 10-13-1981;
438 Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); and
439 Ord. No. 2010-29, adopted January 10, 2011.

440 **ADD THE FOLLOWING DEFINITION TO ARTICLE 12 OF THE ZONING**
441 **ORDINANCE:**

442 *Permanently placed manufactured home* means a manufactured home that has been placed
443 upon a permanent, unmovable foundation.

444 **REPLACE THE BELOW DEFINITIONS IN ARTICLE 12 OF THE ZONING**
445 **ORDINANCE WITH THE FOLLOWING:**

446 *Manufactured home* means a factory-built, single-family dwelling:

447 a. Transportable in 1 or more sections, which is either 8 body feet or more in width and 40
448 body feet or more in length, or, when erected on site, has more than 400 square feet in living
449 area; and

450 b. Designed to be used as a year-round dwelling when connected to the required utilities; and

451 c. Manufactured after June 15, 1976, and built in accordance with manufactured home
452 construction requirements promulgated by the federal Department of Housing and Urban
453 Development (The HUD Code).

454 *Mobile home* means a factory-built, single-family dwelling:

455 a. Transportable in 1 or more sections, which is either 8 body feet or more in width and 40
456 body feet or more in length, or, when erected on site, has more than 400 square feet in living
457 area; and

458 b. Designed to be used as a year-round dwelling when connected to the required utilities; and

459 c. Manufactured before June 15, 1976, and not built in accordance with manufactured home
460 construction requirements promulgated by the federal Department of Housing and Urban
461 Development (The HUD Code). Prior to the HUD code, mobile homes were not subject to
462 uniform construction or safety standards.

463

464 **SYNOPSIS:**

465 The proposed ordinance reorganizes and clarifies a portion of the updates to the Dover Code
466 made in August 2016 through Ordinance #2016-16. The proposed ordinance also brings the
467 updates into compliance with provisions of the Delaware Code related to manufactured housing
468 and rental housing, particularly Title 25, Chapters 53, 55, 70, and 71. The updates affected
469 include requirements for placing and licensing manufactured homes, standards for management
470 and maintenance of land lease communities, taxation, and code enforcement. A distinction is also
471 made between manufactured homes and permanently placed manufactured homes in the *Zoning*
472 *Ordinance*.



PETITION TO AMEND TEXT of
Dover Code of Ordinances and Zoning Ordinance
Report to the
Dover Planning Commission
March 19, 2018

Proposed Changes:

Text Amendments to the following:

- *Dover Code of Ordinances*, Chapter 66 – Manufactured Homes
- *Dover Code of Ordinances*, Appendix B: Zoning (*Zoning Ordinance*)
 - Article 3 – District Regulations, Section 8 – Manufactured Housing Zone
 - Article 12 – Definitions
- *Dover Code of Ordinances*, Appendix F – Fees and Fines, Chapter 26 Businesses, Article II – Licenses and Chapter 66 – Manufactured Homes, Mobile Homes, and Land Lease Communities

Summary of Amendment:

The proposed amendment reorganizes and clarifies a portion of the updates to the Dover Code made in August 2016 through Ordinance #2016-16. The proposed amendment also brings the updates into compliance with provisions of the Delaware Code related to manufactured housing and rental housing. The updates affected include requirements for placing and licensing manufactured homes, standards for management and maintenance of land lease communities, taxation, and code enforcement.

Ordinance Number:

Proposed Ordinance #2018-01

File Number:

MI-18-02

Development of the Ordinance

Following the August 8, 2016 adoption of revisions to the *Dover Code of Ordinances*, Chapter 66 – Manufactured Homes, Mobile Homes, and Land Lease Communities; Appendix B, *Zoning Ordinance*, Article 3 Section 8 – Manufactured Housing Zone; and several other sections of the Dover Code, several members of the manufactured housing community, including homeowners and park owners, came forward with concerns about the adopted ordinance. In the process of evaluating these concerns, Planning Staff identified a series of further improvements that could be made principally to Chapter 66 to better organize the section, clarify processes and enforcement, and ensure compliance with State law. Ensuring the code's compliance with the portions of State law related to the legal obligations of landlords and tenants (*Delaware Code*, Title 25, Chapters 53 and 55) and to manufactured homes and manufactured home communities (*Delaware Code*, Title 25, Chapters 70 and 71) in particular should address the community's

concerns with the 2016 ordinance. Staff also identified potential changes in the *Zoning Ordinance* to support the main series of changes in Chapter 66 (see further description below).

Current Proposed Ordinance

Key components of proposed Ordinance #2018-01 include the following:

- Reorganization of Chapter 66. The new sections of the Chapter are as follows: 66-1, Purpose Statement; 66-2, Definitions; 66-3, Manufactured and Mobile Homes; 66-4, Land Lease Communities; 66-5, Real Property Taxes; 66-6, Enforcement and Penalties; and 66-7, Exemptions.
- Addition of a Purpose Statement establishing the reasons for regulating Manufactured Homes and Land Lease Communities.
- New definitions for *Land Lease Community Operator* and *Land Lease Community Owner* in Chapter 66.
- Detailed requirements for placement, inspection, and licensing of Manufactured Homes, as well as moving in or out of the City and use of City utilities.
- Addition of a provision allowing land lease community owners to delegate maintenance responsibility over part of a community to a homeowner or other party through an appropriate legal contract. City Code Enforcement is to work with these parties to resolve maintenance issues where such contracts exist. In the 2016 version of this ordinance, the land lease community owner was held responsible for all maintenance. This contravened Title 25, Chapter 53 of the Delaware Code, which allows landlords and tenants to agree in writing that certain maintenance tasks are to be performed by tenants.
- Reduction of the number of hours during which a land lease community owner is required to have office hours for the residents.
- Allows land lease community owners more time in which to provide a receipt for rent payment to a resident who requests one.
- No change to taxation; manufactured homes placed on permanent foundations will continue to be taxed while manufactured homes not placed on permanent foundations will continue to pay license fees in lieu of taxation. The City will not specify an approved method for a home to attain a permanent foundation.
- For homeowners, detailed penalties for failing to obtain placement permits or manufactured home licenses. For community owners, detailed penalties for failing to perform required maintenance or record-keeping.
- Revision of the Provisional Order to better establish that revoking the business license of a Land Lease Community is a measure of last resort, only imposed when there are cumulative unresolved violations creating a nuisance.
- In *Zoning Ordinance*, Article 3 §8, establishing that both manufactured homes and permanently placed manufactured homes are permitted, but not on the same lot. The purpose of this is to allow land lease communities composed of permanently placed, taxed homes, but prevent communities which include both permanent, taxed homes and impermanent, untaxed homes. In such a community it would be very difficult for the City's Tax Office to track which homes are taxed and which are not.

- In *Zoning Ordinance*, Article 3 §12, adding a definition for *permanently placed manufactured home*.

City Council Committee of the Whole/Legislative, Finance, and Administration Committee was presented with this proposed Ordinance #2018-01 at its February 13, 2018 Meeting. The Committee recommended approval of the Proposed Ordinance.

Because text amendments are proposed to the *Zoning Ordinance*, a Public Hearing and Recommendation by the Planning Commission is required. City Council will conduct a Public Hearing and take Final Action on the proposed Ordinance #2018-01 at their meeting of April 9, 2018.

Planning Review and Recommendations:

Planning Staff developed the proposed Ordinance #2018-01 regarding Manufactured Housing and Land Lease Communities and therefore, recommends its adoption. The Planning Office received comments from other Development Advisory Committee (DAC) members and has taken these under review. Based on the comments the Planning Office may offer revisions to the proposed Ordinance. The comments are summarized below.

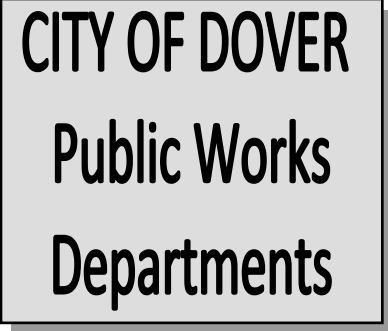
DAC Agency Review Comment	Ordinance Lines	Proposed Revision	Reason/Notes
Public Works	167	Add stormwater facilities to line 167	This section deals with private utilities, and currently lists water and sewer utilities among others; stormwater should also be mentioned.
Fire Marshal/Chief Building Inspector	N/A	Possible revisions to conform this update to the 2018 International Residence Code (IRC), Appendix E - Manufactured Housing used as Dwellings	City Staff has initiated the initial research to begin the process to consider adoption of the 2018 <i>International Code Council</i> code series. In the future, a cross-check between the provisions of this ordinance and the new IRC will be needed to ensure there are no conflicts.

Staff Amendment #1

Planning Staff reviewed the current proposed ordinance and the comments received to develop a Staff Amendment to include the additional clarifications and changes based on department/agency concerns. The proposed changes presented as Staff Amendment #1 is outlined below.

- Add “stormwater facilities” to sentence starting on line 167. To read as follows by inserting the text in bold, blue font: All **private** water, sewer, electric, and gas lines and connections **and stormwater facilities** intended to serve common areas or the private property of tenants within the community shall be kept in good repair at all times by the land lease community **owner**.

CITY OF DOVER
APPLICATION REVIEW COMMENTARY
FEBRUARY 26, 2018



APPLICATION: Text Amendment Zoning Ordinance, Dover Code of Ordinances Chapter 66 and Article 3 Section 8 and Article 12 for Manufactured Housing and Land Lease Communities

FILE #: MI-18-02

REVIEWING AGENCY: City of Dover Electric and Public Works Departments

CONTACT PERSON: Jason A. Lyon, P.E. – Public Works

CONTACT PHONE #: Public Works – 302-736-7025

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY AND STATE CODE REQUIREMENTS

ELECTRIC

1. No objections to the proposed amendments.

WATER / WASTEWATER

1. None.

STORMWATER

1. Please add stormwater facilities to line 167.

SANITATION / STREETS / GROUNDS

1. None.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES

ELECTRIC / WATER / WASTEWATER / STORMWATER / STREETS / SANITATION / GROUNDS / GENERAL

1. None.

ADVISORY COMMENTS TO THE APPLICANT

ELECTRIC / WATER / WASTEWATER / STORMWATER / SANITATION / STREETS / GROUNDS

1. None

IF YOU HAVE ANY QUESTIONS OR NEED TO DISCUSS ANY OF THE ABOVE COMMENTS, PLEASE CALL THE ABOVE CONTACT PERSON AND THE PLANNING DEPARTMENT AS SOON AS POSSIBLE.

CITY OF DOVER

DEVELOPMENT ADVISORY COMMITTEE

APPLICATION REVIEW COMMENTARY

D.A.C. MEETING DATE: 03/07/18

APPLICATION: Text Amendments: Manufactured Housing and Land Lease Communities

FILE #: MI-18-02 **REVIEWING AGENCY:** City of Dover, Office of the Fire Marshal

CONTACT PERSON: Jason Osika, Fire Marshal

PHONE #: (302) 736-4457

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY, AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY’S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESS BY THE APPLICANT:

ADDITIONAL / SPECIFIC REQUIREMENTS TO OBTAIN APPROVAL:

1. The Fire Marshal’s Office has no comments at this time
2. The Chief Building Inspector has the following comment: Ordinance #2018-01, Chapter 66- Manufactured Homes, Mobile Homes and Land Lease Communities, 2018 Building Code(s) inclusive of Appendix E of the 2018 IRC, The 2018 building code draft ordinance will reference “Chapter 66- Manufactured Homes, Mobil Homes and Land Lease Communities” in addition to “Appendix E Manufactured Housing used as Dwellings” within the 2018 IRC. It is unknown if cross reference has been done between “Chapter 66”, the proposed ordinance(s), “Appendix E” and or other related parts of the building code/life safety code(s) to confirm or deny continuity to those codes/ordinances and as referenced within the same.

APPLICABLE CODES LISTED BELOW (NOT LIMITED TO):

- 2015 NFPA 1 Fire Code (NFPA; National Fire Protection Association)
- 2015NFPA 101 Life Safety Code (NFPA; National Fire Protection Association)
- 2013 NFPA 72 National Fire Alarm and Signaling Code (NFPA; National Fire Protection Association)
- 2013 NFPA 13 Installation of Sprinkler Systems (NFPA; National Fire Protection Association)
- 2009 IBC (International Building Code)
- Latest editions of all other NFPA Codes as defined by the Delaware State Fire Prevention Regulations
- 2015 Delaware State Fire Prevention Regulations
- City of Dover Code of Ordinances

***If you have any questions or need to discuss any of the above comments, please call the above contact person listed.**

CITY OF DOVER
DEVELOPMENT ADVISORY COMMITTEE
APPLICATION REVIEW COMMENTARY
D.A.C. MEETING DATE: February 28, 2018



=====

APPLICATION: Text Amendment: Manufactured Housing and Land Lease Communities

FILE#: MI-18-02

REVIEWING AGENCY: DeIDOT

CONTACT PERSON: Joshua Schwartz

PHONE#: 760-2768

=====

THE SUBJECT PROPOSAL HAS BEEN REVIEWED FOR CODE COMPLIANCE, PLAN CONFORMITY AND COMPLETENESS IN ACCORDANCE WITH THIS AGENCY'S AUTHORITY AND AREA OF EXPERTISE.

THE FOLLOWING ITEMS HAVE BEEN IDENTIFIED AS ELEMENTS WHICH NEED TO BE ADDRESSED BY THE APPLICANT:

CITY & STATE CODE REQUIREMENTS:

DeIDOT has no comments regarding city & state code at this time.

RECOMMENDATIONS SUGGESTED AS CONDITIONS OF APPROVAL TO MEET CODE OBJECTIVES:

DeIDOT has no recommendations at this time.

ADVISORY COMMENTS TO THE APPLICANT:

- DeIDOT has no comments.

If you have any questions or need to discuss any of the above comments, please call the above contact person and the planning department as soon as possible.

CITY OF DOVER PROPOSED ORDINANCE #2018-01

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN**
2 **COUNCIL MET:**

3
4 That Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities be amended by
5 inserting the text indicated in bold, blue font and deleting the text indicated in red strikethrough as follows:

6
7 **Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities**

8
9 **Sec. 66-1. – Purpose Statement.**

10
11 **The City of Dover recognizes that manufactured homes are a unique housing type with their own**
12 **history of placement and ownership traditions arising from their origins as mobile homes. A**
13 **modern manufactured home does not resemble a vehicle, and once placed is rarely moved.**
14 **However, most manufactured homes are owned as if they were vehicles, separate from the land**
15 **they are placed on, and may theoretically be moved at any time. Because of this the city recognizes**
16 **that consistent standards are needed for placement, licensing, and tracking of manufactured**
17 **homes, in order to ensure the homes’ orderly movement into, out of, and around the city.**

18
19 **The city further recognizes that land lease communities, which may give ground lease to**
20 **manufactured homes or other types of housing, typify a use of land which does not align perfectly**
21 **with either apartments or residential subdivisions. Because of this, areas of responsibility on the**
22 **part of residents, owners, and the city with regard to maintenance, communication, and taxation**
23 **can be unclear without the adoption of consistent standards governing these areas of**
24 **responsibility. The city recognizes that where responsibility is not clearly claimed detrimental**
25 **conditions can arise for residents.**

26
27 **This chapter therefore lays out the consistent standards needed for manufactured homes and land**
28 **lease communities, while updating and consolidating earlier regulations regarding mobile homes**
29 **and mobile home parks. The standards are intended to be applicable to all land lease communities**
30 **currently in the city or which may be established in the future. They are also intended to cover**
31 **both manufactured homes and permanently placed manufactured homes, and the issues unique to**
32 **each.**

33
34 **Sec. ~~66-1~~66-2. - Definitions.**

35
36 The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed
37 to them in this section, except where the context clearly indicates a different meaning:

38
39 *Land lease community* means a residential development typified by single ownership of the land
40 within the development, with the landowner retaining the rights of ownership. Home sites or individual
41 lots within the community are leased to individual homeowners, who retain customary leasehold rights.

42
43 *Land lease community operator* means any person designated by contractual arrangement with
44 the land lease community owner to supervise or maintain a land lease community and interact
45 with its residents.

46

47 *Land lease community owner means the owner of the underlying fee interest in the land where*
48 *a land lease community is sited.*
49

50 *Manufactured home* means a factory-built housing unit designed and constructed to meet the
51 Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban
52 Development (HUD) Code. A manufactured home is built on a chassis that supports the structural
53 integrity of the home and to allow transport to the site. Factory-built units built to meet the HUD Code
54 and constructed after the code took effect on June 15, 1976 are classified as "manufactured homes."
55

56 *Mobile home* means a factory-built housing unit constructed on a chassis and completed before June
57 15, 1976. Prior to the HUD code, mobile homes were not subject to uniform construction or safety
58 standards.
59

60 *Owner of a manufactured home or mobile home* means the person designated in the vehicle title of
61 the manufactured home or mobile home, whether the title is issued by this state or by some other state.
62

63 *Owner of a permanently placed manufactured home* means the person designated in the vehicle or
64 real property title of the permanently placed manufactured home, whether the title is issued by this state
65 or by some other state.
66

67 *Permanently placed manufactured home* means a factory-built housing unit designed and
68 constructed to meet the Manufactured Home Construction and Safety Standards of the U.S. Department
69 of Housing and Urban Development (HUD) Code, and that has also been placed upon a permanent,
70 unmovable foundation.
71

72 (Ord. of 2-23-1970, § 2; Code 1981, § 12-1; Ord. of 11-10-1986, § 1; Ord. No. [2016-16](#), 8-8-2016)
73

74 **Sec. ~~66-266-3~~. - ~~Licenses~~. Manufactured and mobile homes.**
75

- 76 (a) *Placement permit.* Every owner of a manufactured home shall apply for and obtain from
77 the city planner or his/her authorized agent a placement permit for such manufactured
78 home prior to placement of the home within the city. The owner of the manufactured
79 home shall pay a fee for such permit as provided for in Appendix F-Fees and Fines. No
80 certificate of occupancy shall be issued for a newly placed manufactured home that has
81 not also been issued a placement permit.
82
- 83 (b) *Inspection.* Prior to the issuance of a certificate of occupancy for any manufactured home,
84 the home shall pass inspection by the building inspector. The owner of the manufactured
85 home shall cause the home to be firmly attached to the ground by means of a permanent
86 foundation or anchors, and cause any open space beneath the unit to be skirted or
87 enclosed with material approved by the building inspector.
88
- 89 (c) *License.* The owner of any mobile home or manufactured home that is not placed on a
90 permanent foundation shall obtain an annual license for it. The owner of the mobile
91 home or manufactured home shall pay an annual fee for such license as provided for in
92 Appendix F-Fees and Fines. If such manufactured home is newly moved into the city, the

93 owner of the manufactured home shall obtain the license and shall pay the license fee
94 within seven days of issuance of a certificate of occupancy for the home. Payment of the
95 license fee shall be prorated on a quarterly basis for each fractional part of a year during
96 which the manufactured home is in the city.

97
98 (d) *Conditions for license.* No license for a new manufactured home shall be issued until the
99 home has passed inspection and received a certificate of occupancy as required by this
100 section.

101
102 (e) *Moving within or out of city.* When the owner of a mobile home or manufactured home
103 removes the home from its current site or lot, the owner shall obtain a demolition permit
104 for the removal.

105
106 (f) *Use of city utilities.* Owners of all types of manufactured homes shall coordinate with city
107 departments during the permitting and licensing process regarding the appropriate times
108 to transfer responsibility for utilities and activate service.

109
110
111 ~~—(a) *Required fee.* The owner of a mobile home or manufactured home that is not to be permanently~~
112 ~~placed shall obtain an annual license for it and shall pay a fee for such license as provided for in~~
113 ~~Appendix F—Fees and Fines.~~

114
115 ~~—(b) *Payment; penalties.* Such license shall be obtained and the license fee paid by August 1 of each~~
116 ~~year and if such fee is not paid before September 1 of such year, then, in addition to any penalty~~
117 ~~incurred pursuant to Appendix F—Fees and Fines, a penalty fee of ten percent per month shall~~
118 ~~accrue on the unpaid balance of the license fee.~~

119
120 ~~—(c) *Moving into city.* Upon the moving of a manufactured home into the city, if the manufactured~~
121 ~~home requires a license it shall be obtained and the license fee paid within seven days. Payment~~
122 ~~of such license fee shall be prorated on a quarterly basis for each fractional part of a year during~~
123 ~~which the manufactured home is in the city.~~

124
125 ~~—(d) *Required fee for landowners.* The owner of any land leased out as part of a land lease~~
126 ~~community shall obtain an annual land lease community operator business license under the~~
127 ~~provisions of Chapter 26—Businesses.~~

128
129 (Ord. of 2-23-1970, § 2; Ord. of 5-24-1976; Ord. of 3-27-1980; Code 1981, § 12-2; Ord. of 8-8-1988;
130 Ord. of 3-22-1993; Ord. No. 2009-09, 6-22-2009; Ord. No. [2016-16](#), 8-8-2016)

131
132 **~~Sec. 66-3.—Real property taxes.~~**

133
134 ~~—A permanently placed manufactured home as defined in section 66-1, and the lot upon which it is~~
135 ~~located shall be considered as being real property for purposes of valuation, assessment and taxation in~~
136 ~~accordance with section 47 of the Charter.~~

137
138 (Code 1981, § 12-2.1; Ord. of 11-10-1986, § 2; Ord. No. [2016-16](#), 8-8-2016)

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~~Sec. 66-4. Placement permit.~~

~~—Every owner of a manufactured home, shall apply for and obtain from the city planner or his/her authorized agent a placement permit for such manufactured home. The city planner or his/her authorized agent shall issue no placement permit until the license fee required in this chapter is paid in full.~~

(Ord. of 2-23-1970, §§ 3, 6; Ord. of 5-24-1976; Code 1981, § 12-3; Ord. No. [2016-16](#), 8-8-2016)

~~Sec. 66-566-4. Duties of land lease community owners and operators~~Land lease communities.

- (a) The following regulations shall apply to ~~owners and operators of all land lease communities:~~**the maintenance of land lease communities:**
- i. *Private road access.* It shall be the responsibility of land lease community owners ~~and operators~~ to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including but not limited to potholes, snow piles, and debris.
 - ii. *Debris clearance.* It shall be the responsibility of land lease community owners ~~and operators~~ to ensure that all facilities and common areas within the community are kept in good repair and maintained in such a manner as to prevent the accumulation of materials which could cause a fire hazard or would cause insect or rodent breeding and harborage.
 - iii. *Landscaping.* All trees, shrubbery, lawns, and other landscaping features within the community shall be maintained by the land lease community ~~operator~~**owner** to be in healthy condition at all times.
 - iv. *Utilities.* All **private** water, sewer, electric, and gas lines and connections intended to serve common areas or the private property of tenants within the community shall be kept in good repair at all times by the land lease community ~~operator~~**owner**. Stormwater management facilities shall be maintained so as to be free of blockage and to prevent the accumulation of standing water **that does not dissipate within 48 hours, except in facilities approved for retention of water**. Community owners shall coordinate with the City of Dover regarding utility services and equipment.
 - v. *Delegation of maintenance duties.* **Maintenance responsibilities detailed in subsections i. through iv. of Section 66-4(a) may be delegated by the land lease community owner to leaseholders, a land lease community operator, or other parties, provided that the delegated party's specific responsibilities are detailed in an appropriate legal contract. All maintenance responsibilities not delegated shall be retained by the land lease community owner.**
- (b) **The following regulations shall be the reporting, record-keeping, and licensing requirements of land lease communities:**

185 ~~vi. Office hours. The land lease community operator shall be present on site at a minimum~~
186 ~~during regular business hours, so as to facilitate communication between tenants of the~~
187 ~~community and the owner, and a 24-hour emergency contact shall be available to residents.~~
188 **To facilitate communication between tenants of the community and the owner, the**
189 **land lease community owner or operator shall be present on site during fixed hours to**
190 **be communicated to residents and posted at the office. The office hours shall be no**
191 **less than 20 hours per week and shall not be between the hours of midnight and 7am.**
192 **A 24-hour emergency contact shall also be available to residents.**

193
194 ~~vii. Receipt for lot payment. The land lease community owner or operator shall provide a~~
195 ~~written receipt or electronic receipt at the time a cash payment for rent payment has been~~
196 ~~made, regardless of the form of payment. If a land lease community owner accepts a~~
197 ~~form of payment other than cash, the community owner shall, within 2 days, give to~~
198 ~~the tenant a receipt for that payment. The community owner or operator shall, for a~~
199 ~~period of 3 years, maintain a record of all cash receipts for rent.~~
200 **vii. Receipt for lot payment. The land lease community owner or operator shall provide a**
201 **written receipt or electronic receipt at the time a cash payment for rent payment has been**
202 **made, regardless of the form of payment. If a land lease community owner accepts a**
203 **form of payment other than cash, the community owner shall, within 2 days, give to**
204 **the tenant a receipt for that payment. The community owner or operator shall, for a**
205 **period of 3 years, maintain a record of all cash receipts for rent.**

206
207
208 ~~iii. Lease record; report. To assist in keeping city license records and tax records up to~~
209 ~~date, land lease community owners who lease land to two or more persons for home~~
210 ~~sites shall maintain a lease record, which shall be open for inspection at all reasonable~~
211 ~~times by the city planner. Before July 1 of each year, the land lease community owner~~
212 ~~shall report to the city planner the names and addresses of all persons having homes~~
213 ~~on his land.~~
214 **iii. Lease record; report. To assist in keeping city license records and tax records up to**
215 **date, land lease community owners who lease land to two or more persons for home**
216 **sites shall maintain a lease record, which shall be open for inspection at all reasonable**
217 **times by the city planner. Before July 1 of each year, the land lease community owner**
218 **shall report to the city planner the names and addresses of all persons having homes**
219 **on his land.**

220
221 ~~iv. Required license for landowners. The owner of any land leased out as part of a land~~
222 ~~lease community shall obtain an annual land lease community operator business~~
223 ~~license under the provisions of Chapter 26—Businesses, or direct the land lease~~
224 ~~community operator to obtain this license. Only one business license shall be required~~
225 ~~per land lease community. The fee for such license shall be based on the total number~~
226 ~~of lots or home sites in the community, including both vacant and occupied lots and~~
227 ~~sites.~~
228 **iv. Required license for landowners. The owner of any land leased out as part of a land**
229 **lease community shall obtain an annual land lease community operator business**
230 **license under the provisions of Chapter 26—Businesses, or direct the land lease**
community operator to obtain this license. Only one business license shall be required
per land lease community. The fee for such license shall be based on the total number
of lots or home sites in the community, including both vacant and occupied lots and
sites.

231 ~~(b) The following regulations shall additionally apply to owners and operators of land lease~~
232 ~~communities leasing land to manufactured homes:~~

233 ~~i. Documents to manufactured home owners. Copies of this chapter and placement permit~~
234 ~~application forms shall be furnished to each land lease community owner, who shall give a copy~~
235 ~~of the same to every manufactured home owner who moves a manufactured home into the~~
236 ~~community, before the 15th day of the next succeeding month after placement of the~~
237 ~~manufactured home.~~
238 **i. Documents to manufactured home owners. Copies of this chapter and placement permit**
239 **application forms shall be furnished to each land lease community owner, who shall give a copy**
240 **of the same to every manufactured home owner who moves a manufactured home into the**
241 **community, before the 15th day of the next succeeding month after placement of the**
242 **manufactured home.**

243 ~~ii. Enforcement. It shall be the responsibility of land lease community owners and operators to~~
244 ~~ensure that all mobile homes and manufactured homes placed on their land maintain a current~~
245 ~~license under section 66-2.~~
246 **ii. Enforcement. It shall be the responsibility of land lease community owners and operators to**
247 **ensure that all mobile homes and manufactured homes placed on their land maintain a current**
248 **license under section 66-2.**

249 ~~iii. Lease record; report. Land lease community owners who lease land to two or more persons~~
250 ~~for siting manufactured homes shall maintain a lease record, which shall be open for inspection~~

~~at all reasonable times by the city planner. Before June 1 of each year, the land lease community owner shall report to the city planner the names and addresses of all persons having manufactured homes on his land.~~

~~iv. Sale of home. Before a home is sold by the homeowner, home owner's estate, foreclosure, eviction or other means, the City of Dover must be notified and all delinquent taxes, fees, or other charges must be paid.~~

~~v. The land lease community owner must notify the City of Dover if the community is placed for sale.~~

~~(c) The following shall be considered appropriate methods of redress if the duties outlined in this section are not fulfilled:~~

~~i. Any land lease community owner found to be in violation of the provisions of this section, regardless of corrective actions taken, shall be assessed a fine as provided for in Appendix F-Fees and Fines. Any such fine shall be in addition to any charges imposed upon the violator in accordance with subsection (c)(ii) below.~~

~~ii. If required, the City of Dover may perform maintenance in the owner's stead following official notice, and place a lien on the property to recover costs, including a 15 percent administrative charge.~~

~~iii. Repeated failure to perform the required duties shall be cause to take action upon an owner's land lease community operator license in accordance with the provisions of Chapter 26-Businesses, Article II, Section 26-59.~~

Sec. 66-5. - Real property taxes.

A permanently placed manufactured home as defined in section 66-2-Definitions, and the lot upon which it is located shall be considered as being real property for purposes of valuation, assessment and taxation in accordance with section 47 of the Charter. Manufactured homes that are not permanently placed shall not be taxed but shall pay the annual license fee required by this chapter in lieu of taxes.

Sec. 66-6. – Enforcement and penalties.

(a) Licenses and permits. Enforcement of licensing and permitting requirements shall be as follows:

i. Obtaining manufactured home licenses. If the owner of a mobile home or manufactured home not permanently placed fails to obtain or renew the annual license required by this chapter, a fine pursuant to Appendix F-Fees and Fines may be assessed on the owner of the home, if the home has not been removed from the city.

ii. Obtaining placement permits. An owner of a manufactured home who places their home without obtaining a placement permit to do so shall have the standard penalties

- 277 imposed for failure to obtain a building permit as outlined in Chapter 22 - Buildings
278 and Building Regulations of the Dover Code.
- 279 iii. *Obtaining land lease community operator business licenses.* A land lease community
280 owner who does not obtain an annual business license as required by this chapter
281 shall have the standard penalties imposed for failure to obtain a business license as
282 outlined in Chapter 26 - Businesses of the Dover Code.
- 283 (b) *Land lease community maintenance requirements.* Enforcement of community maintenance
284 requirements shall be as follows:
- 285 i. *Violations and penalties.* Any land lease community owner found to be in violation of the
286 provisions of Section 66-4(a) may be assessed a fine pursuant to Appendix F-Fees and
287 Fines. If required, the City of Dover may perform maintenance to correct the violation
288 in the owner's stead, and add the cost of maintenance, including a 15 percent
289 administrative charge, to the fine to be assessed.
- 290
- 291 ii. *Delegation of responsibilities.* If a land lease community owner has via contractual
292 agreement delegated maintenance responsibilities over the portion of the property in
293 violation to the owner of a manufactured home, any fines assessed pursuant to
294 subsections (b)(i) and (b)(ii) above shall be imposed on the owner of the home.
- 295
- 296 (c) *Reporting and record-keeping requirements.* Enforcement of reporting and record-keeping
297 requirements shall be as follows:
- 298
- 299 i. *Provision of lease records.* If the owner of a land-lease community fails to provide a lease
300 record before July 1 of the year, a fine pursuant to Appendix F-Fees and Fines may be
301 assessed on the owner of the land lease community.
- 302
- 303 ii. *Provision of office hours.* The City of Dover may inspect the office of a land lease
304 community, and upon finding that hours are not posted, or a representative is not on
305 site during posted office hours, assess a fine pursuant to Appendix F-Fees and Fines. A
306 finding that a land lease community's 24-hour emergency line is not functioning may
307 also be cause to assess the same fine.
- 308
- 309 iii. *Provision of receipts.* If the owner of a manufactured home requests a receipt for
310 payment of rent from a land lease community owner or operator and does not receive
311 one within 2 days, the owner of the manufactured home may ask the City of Dover to
312 request the same. If a receipt is not provided to the city within an additional 7 days, a
313 fine pursuant to Appendix F-Fees and Fines may be assessed on the owner of the land
314 lease community.
- 315
- 316 (d) *Official notice.* As part of any fine assessed pursuant to Section 66-6, the City of Dover shall
317 give official notice to the violator. Policy and procedures for timing of official notices and
318 fines shall be developed by the planning and inspections department.
- 319
- 320 (e) *Provisional order.* When cumulative unresolved violations in a land lease community are
321 inimical to the public health, safety and general welfare so as to constitute a nuisance, and

322 the land lease community owner has not taken action to resolve the violations or cause the
323 appropriate parties to resolve the violations, the city may take action upon an owner's land
324 lease community operator license in accordance with the provisions of Chapter 26—
325 Businesses, Article II, Sections 26-59 through 26-65.

326
327
328 (Ord. No. [2016-16](#), 8-8-2016)

329
330 **Editor's note**— Ord. No. [2016-16](#), adopted August 8, 2016, in effect repealed § 66-5 and enacted a
331 new § 66-5 as set out herein. Former § 66-5 pertained to duties of mobile home park owners and derived
332 from Ord. of 2-23-1970 and the Code of 1981.

333
334 ~~**Sec. 66-6.—Anchoring and skirting.**~~

335
336 ~~—Prior to the issuance of a certificate of occupancy for any manufactured home not placed on a~~
337 ~~permanent foundation, the manufactured home shall be firmly anchored to the ground and the open~~
338 ~~space beneath the unit shall be skirted with approved material in accordance with the requirements of the~~
339 ~~building inspector.~~

340
341 (Ord. of 9-13-1976; Code 1981, § 12-5; Ord. No. [2016-16](#), 8-8-2016)

342
343 ~~**Sec. 66-7.—Use of city utilities.**~~

344
345 ~~—The owner or occupant of any mobile home or manufactured home shall not be entitled to receive~~
346 ~~city utilities until the license fee required in this chapter is paid in full, and city personnel shall refuse to~~
347 ~~provide sewage, water and electricity to the mobile home or manufactured home until satisfactory proof~~
348 ~~is furnished that such license fee has been paid.~~

349
350 (Ord. of 7-28-1975; Code 1981, § 12-6; Ord. No. [2016-16](#), 8-8-2016)

351
352 ~~**Sec. 66-866-7. - Exemptions.**~~

353
354 This chapter shall not apply to:

- 355
356 (1) *Dealers*. Unoccupied manufactured homes located on a dealer's display lot; or
357
358 (2) *Manufactured homes in transit*-. Unoccupied manufactured homes temporarily occupying the
359 public right-of-way prior to placement on a lot or home site.

360
361 (Ord. of 2-23-1970, § 8; Code 1981, § 12-7; Ord. No. [2016-16](#), 8-8-2016)

362
363 **BE IT FURTHER ORDAINED:**

364
365 That Appendix B - Zoning, Article 3 - District Regulations, Section 8 - Manufactured housing (MH)
366 zone, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red
367 strikeout as follows:

368 **Section 8. - Manufactured housing (MH) zone.**^[2]
369

370 8.1 *Uses permitted.* In a manufactured housing zone, no building or premises shall be used, and no
371 building shall be erected, which is arranged, intended or designed to be used, in whole or in
372 part, for any uses, except the following:
373

374 8.11 Manufactured homes on individual lots, held in any type of ownership.
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376 8.12 Multiple manufactured homes on a lot, provided that:
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378 (a) The lot is operated as a condominium, **including but not limited to condominiums**
379 **formed pursuant to 25 Del Code, Chapter 71;** or
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381 (b) The lot is operated as a land lease community; and
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383 (c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for
384 rent or sale on the lot to accommodate 15 manufactured homes. Such home sites
385 need not be expressly delineated but must be improved so as to be complete and
386 ready for occupancy by a manufactured home. **There shall be no mixing of**
387 **manufactured homes and permanently placed manufactured homes on one lot.**
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389 **8.13 Permanently placed manufactured homes on individual lots, provided that the home**
390 **and the lot are under common ownership.**
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392 **8.14 Multiple permanently placed manufactured homes on a lot, provided that:**
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394 (a) **The lot is operated as a condominium including but not limited to**
395 **condominiums formed pursuant to 25 Del Code, Chapter 71;** or
396

397 (b) **The lot is operated as a land lease community; and**
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399 (c) **There are at least 15 permanently placed manufactured homes on the lot, or**
400 **else sufficient home sites for rent or sale on the lot to accommodate 15**
401 **permanently placed manufactured homes. Such home sites need not be**
402 **expressly delineated but must be improved so as to be complete and ready for**
403 **occupancy by a permanently placed manufactured home. There shall be no**
404 **mixing of manufactured homes and permanently placed manufactured homes**
405 **on one lot.**
406

407 ~~8.13~~¹⁵ One-family detached homes on individual lots, held in any type of ownership.
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409 8.2 *Conditional uses*-. Conditional uses shall be consistent with those conditionally permitted in
410 the one-family residence zones.
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412 8.3 *Accessory uses*-. Accessory uses shall be consistent with those permitted in the one-family
413 residence zones, with the following additions and exceptions:

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8.31 *Management facilities.* The following shall be permitted accessory to lots providing home sites for multiple manufactured homes:

- (a) Management offices with rooms for the usual office furniture and supplies, limited to one per lot;
- (b) Storage space for utility connection supplies in quantity, manufactured home accessories and maintenance materials and equipment;
- (c) Laundry facilities equipped with washing machines and dryers;
- (d) Community building facilities, including indoor recreation areas;
- (e) Commercial establishments consistent with uses permitted in the C-1 neighborhood commercial zone, limited to one such establishment per lot;
- (f) One-family detached homes intended for the use of a manager or caretaker, limited to one such dwelling per lot.

8.32 *Accessory home occupations.* Accessory home occupations shall be permitted consistent with the conditions outlined for home occupations in the one-family residence zones, with the exception that no home occupation shall be permitted if not also permitted by the owner of the lot on which the home is sited.

8.4 *Uses prohibited-* The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.5 *Minimum occupation length-* No lot or home site within the manufactured housing zone reserved for occupation by a manufactured home shall be leased or occupied for residential use except for periods of 30 consecutive days or more.

8.6 *Land lease communities-* The following regulations shall apply to land lease communities within the MH zone:

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8.61 *Ownership*. The entire land area occupied by a land lease community, regardless of the number of home sites or individual lots therein, shall be maintained in single ownership, or if in multiple ownership, under the provisions of the laws of the state dealing with unit properties and condominiums.

8.62 *Changes to site plan*. After initial site development plan approval of a land lease community, reapproval for the entire community shall not be required prior to the issuance of building permits for alterations to individual manufactured homes, or their accessory buildings such as storage areas and patios, which, in the judgement of the city planner, do not materially alter the site development plan approval by the planning commission and are requested as adjustments to the individual manufactured home sites or lots leased by an individual family and designed for the convenience and comfort of the individual lessee.

8.7 *Performance Standards*-. All uses are subject to performance standards as set forth in article 5, section 8.

8.8 *Site development plan approval*-. Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

8.81 For purposes of preparing a site development plan for approval by the planning commission, and all subsequent improvements, alterations or additions, the applicant shall conform to current submission requirements and site development standards as set forth by the National Fire Protection Association publication 501A, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities." Where applicable, the approving authority shall be the fire marshal's office.

8.82 No site development plan proposing the siting of a manufactured home outside of a land lease community shall be approved unless the plan shows the manufactured home is to be permanently placed, as defined in the Dover Code of Ordinances, Chapter 66—Manufactured Homes, Mobile Homes, and Land Lease Communities.

8.9 *Maximum density*-. The gross residential density in an MH zone shall not exceed six dwelling units per acre.

8.10 *Signs*-. Signs shall meet the regulations found in Article 5—Supplementary Regulations, Section 4—Supplementary Sign Regulations.

(Ord. No. [2016-16](#), 8-8-2016)

Footnotes:
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506 **Editor's note**— Ord. No. [2016-16](#), adopted August 8, 2016, in effect, repealed § 8 and enacted a new §
 507 8 as set out herein. Former § 8 pertained to similar subject matter and derived from Ord. of 10-13-1981;
 508 Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); and
 509 Ord. No. 2010-29, adopted January 10, 2011.

510
 511 **BE IT FURTHER ORDAINED:**

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 513 That Appendix B - Zoning, Article 12 - Definitions, be amended by inserting the following definition in
 514 its correct alphabetical order:

515
 516 *Permanently placed manufactured home means a factory-built housing unit designed and*
 517 *constructed to meet the Manufactured Home Construction and Safety Standards of the U.S.*
 518 *Department of Housing and Urban Development (HUD) Code, and that has also been placed upon*
 519 *a permanent, unmovable foundation.*

520
 521 **BE IT FURTHER ORDAINED:**

522
 523 That Appendix F - Fees and Fines, be amended by inserting the text indicated in bold, blue font and
 524 deleting the text indicated in red strikethrough as follows:

525
 526 **Chapter 66. - Manufactured Homes, Mobile Homes, and Land Lease Communities**

527

Chapter 66. Manufactured Homes, Mobile Homes, and Land Lease Communities	Fees and Fines
Sec. 66-2. Licenses Sec. 66-3. Manufactured and mobile homes	
Subsec. (a) Required fee Placement permit	\$45.00 each license \$50.00 each one-time placement permit
Subsec. (b) Payment; penalties	A fine of not less than \$50.00 and a penalty fee of ten percent per month shall accrue on the unpaid balance of the license fee
Subsec. (c) License	\$45.00 each license annually
Sec. 66-5. Duties of Land Lease Community Owners and Operators	
Subsec. (c)(i) Failure to perform required duties	A fine of not less than \$50.00 in addition to any charges imposed to cover cost of maintenance by the City
Subsec. 66-5 (c)(ii) Cost of maintenance by the city	\$75.00 per hour for such work

	that must be done to render the property in compliance with this article, plus a 15% administrative charge
Sec. 66-6 Enforcement and penalties	
Subsec. (a) Licenses and permits	
Subsec. (i) Obtaining manufactured home licenses	A fine of not less than \$25.00
Subsec. (b) Land lease community maintenance requirements	
Subsec. (i) Violations and penalties	A fine of not less than \$25.00 in addition to any charges imposed to cover the cost of maintenance by the City at \$75.00 per hour for such work that must be done to render the property in compliance with Chapter 66, Section 66-4, plus a 15% administrative charge
Subsec. (c) Reporting and record-keeping requirements	
Subsec. (i) Provision of lease records	A fine of not less than \$25.00 and a penalty fee of ten percent per month shall accrue for each month the lease record is not provided
Subsec. (ii) Provision of office hours	A fine of not less than \$25.00; the fine may be applied cumulatively or per violation instance
Subsec. (iii) Provision of receipts	A fine of not less than \$25.00; the fine may be applied cumulatively or per violation instance

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529 (Ord. No. [2016-16](#), 8-8-2016)

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531 **ADOPTED:** *

532 S:\ORDINANCES\2018\ORDINANCE #2018-01 CH 66, APPX B-ARTS 3 AND 12, AND APPX F\ORDINANCE #2018-01.wpd

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SYNOPSIS

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The proposed ordinance reorganizes and clarifies a portion of the updates to the Dover Code made in August 2016 through Ordinance #2016-16. The proposed ordinance also brings the updates into compliance with provisions of the Delaware Code related to manufactured housing and rental housing,

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538 particularly Title 25, Chapters 53, 55, 70, and 71. The updates affected include requirements for placing
539 and licensing manufactured homes, standards for management and maintenance of land lease
540 communities, taxation, and code enforcement. A distinction is also made between manufactured homes
541 and permanently placed manufactured homes in the *Zoning Ordinance*.
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543 (SPONSORS: NEAL AND HUGG)
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545 Actions History

546 02/13/2018 - Introduction - Council Committee of the Whole/Legislative, Finance, and Administration Committee
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CITY OF DOVER PLANNING COMMISSION
March 19, 2018
Excerpt from Meeting Minutes – Draft

The Regular Meeting of the City of Dover Planning Commission was held on Monday, March 19, 2018 at 7:00 PM in the City Hall Council Chambers with Chairman Mr. Tolbert presiding. Members present were Mr. Holden, Mr. Roach, Ms. Edwards, Mr. Holt, Mr. Baldwin, Dr. Jones, Mrs. Welch, Ms. Maucher and Mr. Tolbert. Staff members present were Mrs. Dawn Melson-Williams, Mr. Eddie Diaz, Mr. Julian Swierczek, Mr. Jason Lyon, and Mrs. Kristen Mullaney.

MI-18-03 Text Amendments: Manufactured Housing and Land Lease Communities (*Dover Code of Ordinances*, Chapter 66 and *Zoning Ordinance*, Article 3, Section 8 and Article 12) – Public Hearing and Review for Recommendation to City Council on Text Amendments to the *Dover Code of Ordinances*, Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities; to *Zoning Ordinance*, Article 3, Section 8- Manufactured Housing (MH) Zone; and to *Zoning Ordinance*, Article 12- Definitions. The proposed ordinance reorganizes and clarifies a portion of the updates to the Dover Code made in August 2016 through Ordinance #2016-16. The proposed ordinance also brings the updates into compliance with provisions of the *Delaware Code* related to manufactured housing and rental housing, particularly Title 25, Chapters 53, 55, 70, and 71. The updates affected include requirements for placing and licensing manufactured homes, standards for management and maintenance of land lease communities, taxation, and code enforcement. A distinction is also made between manufactured homes and permanently placed manufactured homes in the *Zoning Ordinance*.

- A copy of the Proposed Ordinance #2018-01 is available on the City's website www.cityofdover.com under the Government Heading: Ordinances, Resolutions & Tributes. <https://www.cityofdover.com/ordinances-and-resolutions>

The Legislative, Finance, and Administration Committee reviewed the proposed Text Amendments on February 13, 2018 and the First Reading before City Council occurred on February 26, 2018. The Public Hearing before the Planning Commission is set for March 19, 2018 and Public Hearing and Final Reading before City Council is on April 9, 2018.

Representative: None

Mr. Tolbert recused himself because he resides in a manufactured home.

Mr. Diaz stated that this is series of Text Amendments to the *Dover Code of Ordinances*. The majority are in Chapter 66 Manufactured Homes, Mobile Homes and Land Lease Communities. A few are also in the *Zoning Ordinance*, Article 3 Section 8 which is the Manufactured Housing Zone and the *Zoning Ordinance*, Article 12 Definitions. We last had a major update to the provisions of the Code dealing with manufactured housing back in August 2016. Following that update and some concerns raised by the manufactured housing community, they recognized the need for additional changes to better conform the Ordinance with State Law and then also to clarify the procedures for enforcing the Ordinance and finally to reorganize Chapter 66 so that it would be easier to navigate and present the information in it in a more straight forward manner. Some of the substantial changes of this Ordinance include adding provisions to let land lease community owners pass on maintenance responsibilities to tenants. There are also revised

provisions for office hours and rent receipts. In the *Zoning Ordinance*, there are provisions establishing that homes which are taxed and homes which only pay manufactured home license fees would not be permitted on the same parcel of land in order to simplify the Tax Assessor's tracking of what is taxed and what isn't.

We received a few comments from the Development Advisory Committee regarding the proposal. One is that stormwater facilities should be added to the list of private utilities a community owner would normally be responsible for. That has resulted in Staff Amendment #1 which can be found at the end of the DAC Report. The other major comment was that the Chief Building Inspector asked us to cross check the proposed changes with the upcoming proposed changes to the Building Code which is being updated from the 2009 version of the International Residential Code to the 2018 version. The 2018 version contains its own provisions for manufactured homes and they were asked to make sure that there would be no conflicts. Tonight, the proposed ordinance updates need either a positive or a negative recommendation from the Commission members. Staff will forward that recommendation to City Council for their approval or denial of the Ordinance.

Mr. Holt stated that he noticed that some of the streets going into the trailer parks need a lot of work done. Some of them have bad holes in the streets and if you are not careful you will end up losing a wheel or something. He questioned if this Ordinance will try to correct this situation in the parks? Responding to Mr. Holt, Mr. Diaz stated that where the streets are the private property of the manufactured housing community, this should create some stronger provisions for enforcing that maintenance.

Ms. Maucher questioned if there has been any input from the manufactured home community owner/operators or residents/tenants? Responding to Ms. Maucher, Mr. Diaz stated that input from the manufactured housing community owners was in large part of what led to these proposed amendments during the second round. Their concern with the original amendment that passed in 2016 was that it might contradict some aspects of State private property laws. The original Ordinance didn't contain allowances for them to by contract, assign maintenance over certain parts of their community to their tenants. For instance, the area immediately surrounding their homes and the landscaping that might be in that. That was the major concern that led to the change, but Staff believes that they have gone further than that in making the Ordinance clearer than it was before.

Dr. Jones stated that her concern would be if the homeowners had benefit of reading or hearing the changes or was the complete confidence placed in Staff and others to make the revisions? She is not uncomfortable; she just senses that there was reference to the concern from the very beginning. Responding to Dr. Jones, Mr. Diaz stated that homeowner representation was mainly led by Councilman Neil who sponsored the Ordinance.

Mr. Holden questioned if Staff could count the changes as being more or less protective of the tenants or provide us some commentary towards that end that gives them a flavor for what the changes are going to impart in the practical sense moving forward. Responding to Mr. Holden, Mr. Diaz stated that the original intent of the Ordinance updates in 2016 was definitely to be protective of the tenants by the provisions for maintenance directed at the community owners,

adding better record keeping requirements, the requirement to post office hours where an onsite representative of the owner would be required to be at the community and things like requiring the owner to provide receipts to homeowners when they made payments for rent. With this latest Ordinance update, they have rolled that back a little bit to make things a bit easier on the community owners because their feedback was that the new provisions were too strict and didn't allow them the flexibility they needed to work with the tenants to share maintenance and responsibilities.

Mr. Holden stated that he found it a little odd that in order to move a manufactured home from its current site the owner has to get a Demolition Permit. Is it just lack of another process that it would account for? He is not sure why a Demolition Permit applies there. Responding to Mr. Holden, Mr. Diaz stated that a Demolition Permit applies because although the house itself may not be disassembled or trashed, there are still things that would have to happen to the site that would potentially be considered demolition like removing the footers of the old house, disconnecting utilities, etc. It is a sort of a misnomer for naming but that is something that has not changed since before the 2016 Ordinance.

Mr. Tolbert stated that Mr. Diaz made a statement that the development owners are responsible for the streets in the communities of manufactured homes or mobile homes. Responding to Mr. Tolbert, Mr. Diaz stated that where the streets are actually on the landowner's property and where they are private street they (the landowners) need to be responsible for the streets.

Mr. Tolbert stated that why he raised that question is because the development in which he lives in, the homes are on a permanent foundation and the streets are owned by the City. The City is responsible for the streets and therefore they pay for street repair and snow removal. Responding to Mr. Tolbert, Mr. Diaz stated that Persimmon Park Place is a manufactured home community that unlike the others in the City is not also a land lease community. There is no overarching land owner who owns all of the land beneath the manufactured homes. The homes and the lots are owned by the individual homeowners and the streets in the development are owned by the City so this amendment would not apply to the streets in that particular development.

Dr. Jones stated that in the 2016 version, the land lease community owner was held responsible for all of the maintenance and she thinks that she read that the responsibility was going to be split or shared. Responding to Dr. Jones, Mr. Diaz stated that what it does is it allows the maintenance to be split or shared. It doesn't say that the land owner must do this or the tenant must do this; it says that the landowner must be responsible for all maintenance unless it is specifically designated to a tenant by a private contract.

Dr. Jones questioned if this change was initiated to be a little easier on the community owner? Responding to Dr. Jones, Mr. Diaz stated yes.

Mr. Holden stated that to the specific point that Dr. Jones was trying to make, in Section 66-4(a)v. Delegation of Maintenance Duties, that seems to allow under appropriate contract the responsibility of maintenance for roads or other to be transferred. The challenge is how do they ensure that that's a process that typically the residents of land lease communities are able to understand and proceed through. It tilts the favor back towards the land lease underlying owner

and he doesn't necessarily know that that is bad or good but it's a challenge that he thinks maybe some more discussion is needed on. Responding to Mr. Holden, Mr. Diaz stated that in terms of the City determining or learning who is responsible for what, it is something that Planning Staff is going to have to work closely with Code Enforcement Staff on who in turn will have to work closely with the community owners and residents. Currently, when routine Code Enforcement issues come up in a lot of the manufactured home parks, for instance, trash left out on the street our Code Enforcement Officers go to the homeowners first. For less routine things like potholes in the road, they will go to the community owners first. He foresees that under the new Ordinance, that will largely continue to be the case. In cases where a land owner or a community owner can furnish proof in the form of the contract in question that responsibility needs to go to a different party then our Code Enforcement Staff can be redirected accordingly.

Mr. Holden stated that other than the correspondence you have had with the owners of these types of properties have you had other entities push for that allowed delegation of maintenance? Responding to Mr. Holden, Mr. Diaz stated no.

Mr. Holden questioned if currently it is the underlying owner that is responsible? Responding to Mr. Holden, Mr. Diaz stated that under the current 2016 Ordinance, the letter of the Code holds the owner responsible but their allegation to Staff is that they could not be held responsible because the language of the Code that is currently in place would go against other laws. The allowance for the delegation of maintenance responsibilities to a different party comes from the *Delaware Code*, Title 25 Chapters 53 and 55 which is the Landlord Tenant Code. Without the addition of this particular provision, they would be going against State Law.

Mr. Holden questioned if the City Solicitor offered that opinion to Staff? Responding to Mr. Holden, Mr. Diaz stated yes, he believes so.

Mr. Holden stated that his concern is that it is easy to pass off responsibility to an HRA or a Homeowner's Association. He knows the wrangle that we have had in the State with getting Homeowner's Associations to take care of their roads and their stormwater ponds and generally it's a process that doesn't work. His concern is that the responsibility gets passed along and then allows these facilities to fall under greater disrepair. Those HOA's are much harder to get called to task to rectify a situation. He personally would love to challenge the City Solicitor to find us a path that can hold the underlying land owner, the person with the means to resolve a lot of these issues more responsible. At the end of the day, that cost likely gets flowed through to the residents but then they ensure as a City that these areas are going to be maintained and not have a negative drain on the City as a whole. He would seek from Staff a path to allow that time. How might the Planning Commission offer a pause to give that a closer look?

Ms. Maucher questioned if there was any requirement that the entity receiving responsibility has the technical expertise or the knowledge or financial ability to carry out those responsibilities? It's kind of vague in that regard and having dealt with failing wastewater systems, it can be unpleasant if they don't have the expertise. Responding to Ms. Maucher, Mr. Diaz stated that from a practical standpoint, he has a hard time foreseeing a circumstance where a land lease community owner would assign a homeowner responsibility for maintaining the whole stormwater pond behind their house. More typically, the sorts of maintenance responsibilities

that are delegated are responsibility over the lot that the house sits on maintaining that lot free of trash or maintaining grass and whatever grass and bushes might be planted around the house. Without this provision, a homeowner could theoretically plant their own landscaping around the house and instead of taking care of it themselves; they could say it was the community owners so they should maintain it.

Mr. Holden stated that there certainly seems that there should be the ability to split out maintenance on the lot which he thinks is the issue with the Landlord Tenant Code and also maintenance of the roadways and/or utilities which are ones that a single resident has no ability to impact. He thinks that we could all agree that HOA's generally are not as adept as the underlying owner at taking care of those. He doesn't know our path and he asks Staff how the Commission can put this back in Staff's laps and give them some time to do what they may do with it? Do they table this action for the evening? He personally doesn't think that putting roads and utilities in an HOA is the right path either for the residents or for the City as a whole. Responding to Mr. Holden, Mrs. Melson-Williams stated that if the Planning Commission has some concerns about a particular section they could certainly in taking their action this evening make the recommendation that certain provisions or topic areas be further addressed or evaluated by Staff to bring additional information back to the Commission. The Commission could certainly do that without making a final recommendation on the entire package. This is subject to public hearing this evening. As with all text amendments, that (notice) was published in the local newspaper so there is that opportunity as well as being posted on these various agendas and the First Reading that occurred at City Council. There is nothing in our Code that requires us to send this proposed Text Amendment to every property owner and/or tenant that it may affect. On the question about how to move forward with this package, if you have concerns about the Text Amendment and would seek additional information you could certainly defer action on it until you receive a specific list of information and it could be brought up for continued discussion at a specific future meeting of the Commission.

Mr. Tolbert stated that in his experience with HOA's they don't seem knowledgeable enough to carry out the duties that they are supposed to carry out in being responsible for the developments that they are overseeing.

Dr. Jones stated that as we possibly defer action she would suggest that there are a couple of other things, in her opinion, that need to be tightened. She is not trying to make things difficult for the community owners. On Page 5 Office Hours (line 185), in her mind this doesn't really give a feeling of assurance to the tenants that there are going to be regular fixed office hours. Maybe she is adding a little bit too much to this and she doesn't want to nit-pick but if this is what people have to live by then we want to make very certain that there is not a lot left for interpretation. In Section 66-4(b)ii Receipt for Lot Payment (line 194), has this not been the case in the past? Responding to Dr. Jones, Mr. Diaz stated that there have been comments from various homeowners that they do not receive receipts for payment of rent so that was one of the things desired in the original 2016 Ordinance that is still here.

Ms. Maucher questioned if the additions comport with the Landlord Tenant Code? Responding to Ms. Maucher, Mr. Diaz stated that the Landlord Tenant Code does include provisions for the provision of receipts. The feedback received on that was that those provisions don't go far

enough so we were asked to make our provisions for rent receipts more strict.

Mr. Tolbert opened a public hearing.

Mr. Michael Morton – First State Manufactured Housing Association

Mr. Morton stated that he is the President of First State Manufactured Housing Association and he also represents many of the community owners in the State of Delaware. He brought with him comments that he would like included in the record (*a copy was provided to the Commission*). He can represent to the Commission as an attorney who has been practicing in Delaware for over 35 years that the parts of Mr. Diaz's presentation that he heard were inconsistent with the law. This proposed Ordinance is a revision of changes that were passed roughly 18 months ago. They were stayed by agreement with the City Executive so that interest holders like himself and his clients could participate in the redrafting. They were told that they would be actively engaged in redrafting and the first notice that we got of a redraft was roughly 10 days ago that it was completed and would be heard this evening. This is quite a surprise to those of us who appeared at a prior time when the first version of this was heard. They have considerable concerns on the concept of pre-emption. He brought with him a case from the Supreme Court of Delaware that says these matters are pre-empted by State Law. That the efforts of the Dover City Council and the Planning Commission; however noble, conflict directly with the expressed provisions in the Manufactured Housing Act and are therefore unenforceable. He has gone through every single line of this Ordinance and he has highlighted roughly twenty-five specific examples where it conflicts with the Manufactured Housing Code. That is why this was stayed by agreement so that they could go through those to discuss them with the Solicitor. The Solicitor is well aware of their concerns about the constitutionality of this Ordinance and the enforceability of the Ordinance. Since he is handing out copies he will not go through every single thing. He will simply point out two very specific things and then a number of examples. The applicable Manufactured Housing Code Section 7001 very specifically says that in reference to the relationship between a landlord and a resident in a manufactured housing community, this Code regulates and determines that legal rights, remedies and obligations of all parties to a rental agreement wherever executed for a lot, a manufactured home and a manufactured home community within the State. The second provision that is in difficulty with this is the State Installation Code. It is very specific that it is the only Code governing installations of manufactured homes. The reason that he points out both of these is that multiple sections of this proposed Ordinance conflict directly with that. The Supreme Court in *Cantina vs. Montana* back in 2005 referring back to a case in 1965 had made it absolutely clear that the prerogative on issues of this nature belong to the House and the Senate not to local entities like cities and counties. The purpose statement for this Ordinance itself clearly conflicts both with the purpose statement of the State Code and with the specific elements. Your purpose statement says that "this subchapter applies to rental agreements for manufactured home lots and regulates and determines legal rights and remedies." It also references obligations for communications and other specific issues on maintenance and the like. All of these are specifically referenced in the State Code under the concept of pre-emption that determines the scope of those. This body is not authorized, empowered or cannot enforce an Ordinance that tramples on the specific language of the Manufactured Housing Code. The Manufactured Housing Code also says that sole enforcement rights of those rights and responsibilities lies with the Attorney General's Office. From the beginning to the end, we have great concerns about this. He has written portions in his

comments by line with specific references to the fact that even the definitions that the City has proposed to use conflict with the long term well recognized definitions in the Manufactured Housing Code. The Manufactured Housing Code which he calls in this response, sets forth extensively the maintenance requirements of land community owners such as Wild Meadows within the City of Dover. It sets forth the responsibilities and the obligations and it also sets forth the remedies for landlords and tenants in this relationship. They are extensive provisions and they distinctly define the rights and responsibilities of each party. Under the concept of pre-emption, you as a City cannot enlarge, decrease or impact of State stated rights and responsibilities however laudable your concerns might be. In the section of this proposed Ordinance, it references maintenance responsibilities. Starting with trees, there is specific contrary language in the State Code that says it does not include any responsibility to do some of the things that the City would define as being a responsibility of the community owner. Section 7006.13 of the Manufactured Housing Code very specifically references trees and that language is contrary to the language that the City is proposing. Section 7006.13L defines what a tree is and the definition is different. Section 7003.24 defines what a utility is and again it conflicts with the language contained in this proposed Ordinance. Section 66-3 of this proposed Ordinance conflicts entirely with the pre-empted language of Title 24 *Delaware Code* Chapter 44 which is the State Manufactured Installation Code. The reason he points that out is that even the inspectors for the City must be licensed and be certified by the State Installation Board. Even the standards are clearly State issued and State controlled that the City's inspectors use to determine if an installation has been done properly. Therefore, the City cannot on their own determine what they think is acceptable or what should be added to the State Code. As he stated earlier, this has multiple difficulties. He would respectfully suggest that this body do what he was promised before by the Director before the current Director came into office, which is table it so that they can have a meaningful discussion as stakeholders on the conflicts so that you don't spend unnecessary time proposing language and attempting to put it in place that will result inevitably in Court conflict. The final comment is regarding the licensing provision for the manufactured housing community he and his clients found in Subsection E – Provisional Order. This section proposes that an unresolved violation issued conceivably by the City as an instant ticket could be deemed to be a nuisance without any definition of what a nuisance is. The license that you are required to have to run the community could be revoked or impacted with no meaningful explanation in the body of this Ordinance as to the need for, the requirement of or the desire to have a deprivation hearing or due process for the community owner when they have been alleged to have had a violation. The definition itself under the provision for provisional orders conflicts directly word for word with the existing State Code. There is absolutely no reason for this to be in conflict. It's contrary to the exclusive authority of the State for enforcement of this type of item and it leads to the impractical result of a community potentially having no license and not being able to operate as a community when they still have several hundred residents there.

They checked every couple of months with the City Executive asking where this stood and the City Executive kept saying "we will get back to you." When Mr. Hugg started working for the City, they checked with him every couple of months, specifically referencing the fact that they had a standstill agreement. No one ever denied that they had a standstill agreement and yet no one ever gave them an opportunity to give the feedback that they are giving tonight which would have been incredibly helpful in a drafting of an Ordinance within the confines of the concept of pre-emption.

Mr. Holden stated that Mr. Morton mentioned some Dover communities that would be impacted by this that he represents. Who are those communities? Responding to Mr. Holden, Mr. Morton stated that he represents Wild Meadows which is an RHP community. It changed ownership a couple of months ago. They are one of the five largest ownership groups in the Country. He has a tentative agreement to represent two of the other three owners, but it's not signed so he can't fully disclose who they are right now. It's certainly a concern both for those owners and for the association which represents all owners within the State of Delaware that this has to be consistent. The reason for pre-emption is so that you don't have vastly different rules and regulations in each community. As you can imagine, his view of the hourly requirements for a manager to be present is considerably different than one that was voiced earlier tonight by one of the other members because there is nothing in the State Code that requires that. He respectfully suggests that he doesn't see any other business where the City requires x number of hours for somebody who represents that business to be present and open and available for questions. Certainly, there is no such requirement for apartment complexes at the State level and they have exactly the same issue of pre-emption with residential apartments.

Mr. Holden stated that City Council held a First Reading of this Ordinance. He asked if Mr. Morton was able to be present for that? Responding to Mr. Holden, Mr. Morton stated that he wasn't even aware that it was going on because they had been told that they would be given notice before there was even a draft. The first notice that they received was received in his office on March 1, 2018 from Mr. Hugg indicating that it has already been drafted and that it has already had a First Reading. He doesn't think that it is fair or equitable to keep telling them that they are going to participate and then not let them participate in the meaningful discussion about the language.

Mr. Holden stated that they (the Planning Commission) had a fair amount of discussion over the concern over maintenance of common areas and the roadways really being the specific one. He asked if Mr. Morton had any commentary regarding that. Responding to Mr. Holden, Mr. Morton stated that the Code (Delaware Code) has specific language in the section that he cited that extensively details what the community owner's responsibilities are including roads which means that it's been addressed by the Code. If you follow the logic of his comments, it would mean that that's what you have. You can't, and he means this in the most respectful way possible, try and impose some additional obligations. That is was pre-emption means.

Mr. Tolbert asked Mr. Morton to state the name of his organization and what his organization does in respect to this type of housing. Responding to Mr. Tolbert, Mr. Morton stated that we are the exclusive industry group for manufactured housing communities in the State of Delaware. It's called First State Manufactured Housing Association. It was founded in 1995 and has represented the communities, retailers, vendors and installers in this industry since that time. They participated in the drafting of the statewide Installation Code. It was approved by the legislature and became part of the regulations. They participated in the drafting of the Manufactured Housing Code. He drafted significant portions of that. He was also a chairperson of the committee that drafted the Residential Landlord Tenant Code. This is not a new era for him; it's an era of specialty for his firm and for him personally. His has absolutely no reservations about the accuracy of his concerns about pre-emption.

Mr. Tolbert stated that Mr. Morton mentioned Wild Meadows and his understanding is that Wild Meadows is a land lease development. The development next door to it is a mobile home development where the homes are permanent, but it's not land lease. Noble's Pond is also a land lease operation. Responding to Mr. Tolbert, Mr. Morton stated that Noble's Pond is not a manufactured housing community. The State Relocation Trust Authority has already decided that Noble's Pond is not a manufactured housing community.

Mr. Tolbert stated that Wild Meadows has asked the State to put a cap on the lease payments that they can pay and he thinks that the State refused to do that and they have had their hands full with that battle. Responding to Mr. Tolbert, Mr. Morton stated that one of the City Councilman is a long-term member of the community at Wild Meadows and has been an advocate for their issues in the legislature for many years. He would probably tell you that he was solely or significantly responsible for the imposition of rent justification in manufactured housing communities. There has been no State imposed limitation on the rent at Wild Meadows and we are half way through the required arbitration procedure for this year's rent with the homeowner's association for Wild Meadows tenants. They have had multiple ones of those and they have been quite successful in the court on those issues.

Dr. Jones stated that Mr. Morton referenced a case. Is it in the information that was provided? Responding to Dr. Jones, Mr. Morton stated that it is attached to the master copy and is specifically referenced and cited in the case. It is also a case that the City Solicitor is well aware of and has been since before this first version was passed eighteen months ago.

Ms. Maucher questioned if there are other stakeholders that should be informed of this process aside from your association such as representing particularly tenants in these types of communities? Responding to Ms. Maucher, Mr. Morton stated that he is fairly certain that Councilman Neil has notified all tenant advocacy groups of this pending Ordinance. He can tell you that the board of the First State Manufactured Housing Association is aware and all four owners of the communities located within the City limits are aware of it. The Association itself is considering the possibility of funding any litigation if we can't have something worked out that will benefit everyone. They want to be at the table to discuss this. That is what they thought the deal was from the very beginning.

Mr. Tolbert closed the public hearing.

Mr. Holden stated that he thinks they had landed at some concerns that they aren't quite able to address without the City Solicitor's input to understand the legality of the path forward and the legality of trying to assure that their concerns will be addressed. Further, they are faced with a legal opinion shared that contravenes what the Ordinance is trying to get done. It seems like tabling the Ordinance to allow Staff and the City Solicitor time to give these comments some thought and address them. It seems like a reasonable path forward.

Ms. Maucher moved to table MI-18-03 Text Amendments: Manufactured Housing and Land Lease Communities (Dover Code of Ordinances, Chapter 66 and Zoning Ordinance, Article 3, Section 8 and Article 12) in order to meet with the interested parties and the City Solicitor to ensure that it complies with the State Law and it's not over reaching, seconded by Mr. Holt and

the motion was carried 8-0 by roll call vote with Mr. Tolbert recused. Mr. Holden voting yes; due to the large number of outstanding questions. Mr. Roach voting yes. Ms. Edwards voting yes; for the reasons previously stated. Mr. Holt voting yes; to try to address all of our concerns before we tackle this problem again. Mr. Baldwin voting yes; for all of the reasons stated. Dr. Jones voting yes; for all of the reasons stated and to make sure that we are in compliance. Mrs. Welsh voting yes; due to all of the outstanding issues and in order to ensure that the issues are addressed before the application is brought back to the Planning Commission. Ms. Maucher voting yes; to ensure that there is sufficient input into the City Ordinance.

**By-Laws of the Planning Commission
of the City of Dover**

Objectives

Section 1 The objectives and purposes of the Planning Commission of the City of Dover, Delaware, are those set forth in Chapter 7, Title 22 of the Delaware Code annotated, and amendments, supplements, thereto, and those powers and duties delegated to the Planning Commission by the City Council of the City of Dover pursuant to state statute.

Powers, Duties and Procedures

Section 2 The duties, powers and procedures of the Planning Commission be as set forth in the following documents:

- (a) The resolution of the City Council establishing such Planning Commission;
- (b) The Building Zone Ordinance as to matters relating to amendments to site plan approval;
- (c) The Subdivision Regulations as to the review and approval of subdivision plats;
- (d) As to the regulations set forth herein for all other matters for which the Commission has the responsibility.

Officers

Section 3.1 The officers of the Planning Commission shall consist of a Chairman and Vice-Chairman.

Section 3.2 The Chairman shall preside at the meetings and hearings of the Planning Commission and shall have the duties usually conferred upon a presiding officer. He shall continue to exercise the prerogatives of an individual member of the Commission while performing the duties of presiding officer.

Section 3.3 The Vice Chairman shall be the presiding officer in the absence of the Chairman.

Recording and Corresponding Secretary

Section 4 The Commission shall appoint a Secretary who shall not be a member of the Commission or an officer, and shall have the following duties and responsibilities:

- (a) Prepare agenda for all meetings with the Chairman and provide notice of meetings to Commission members.
- (b) Keep minutes of all meetings, and record of the Commission.
- (c) Act as agent for the Commission in receiving submissions, applications, correspondence, etc.
- (d) Act as agent for the Commission in arranging for notice of public hearings and notifying interested parties of Commission actions as authorized by the Commission.

Official Records

Section 5 The City Clerk shall be the official custodian of the records of the Commission and shall make them available to the public as provided by law. He may designate the office of the Secretary of the Commission or the Planning Office as the place where such records shall be kept.

Elections of Officers

Section 6.1 The officers shall be elected by the Commission at the annual organization meeting which shall be the regular scheduled meeting in July of each year. **Election of officers shall be held by secret ballot.**

Section 6.2 A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected and shall serve for one year or until his or her successor shall take office.

Section 6.3 Vacancies in offices shall be filled by the Commission at any scheduled or special meeting.

Section 6.4 The Chairman and Vice Chairman shall be limited to three consecutive one-year terms. A former Chairman or Vice Chairman who has held three consecutive terms in such position may be elected to that position after vacating the position for a period of one year.

Meetings

Section 7.1 The Commission shall hold one public meeting during each calendar month.

Section 7.2 The monthly meeting date for the coming year shall be established by a majority of the Commission at its organization meeting of the year. The date of the public meeting can be changed during the year by a majority of the Commission

Section 7.3 The Commission will receive all applications concerning matters within its jurisdiction only at its public meetings. All times to be submitted for consideration at any public meeting shall be submitted in complete and final form for Commission consideration not less than thirty days prior to said meeting. No items submitted subsequent to this time shall be placed upon the Agenda except by a majority vote of the Commission members present at such meeting. The official date of receipt of any matter presented to the Commission shall be the date of the first public meeting at which such matter is received for consideration. Any maximum time periods established by the Zoning Ordinance or other local laws limiting the time for consideration of any matter by the Planning Commission shall commence on such date of the receipt.

Section 7.4 A majority of the membership of the Commission shall constitute a quorum. The Commission may act on any matter by a majority vote of such quorum.

Section 7.5 All formal votes to record the decision of the Commission on any matter referred to it shall be taken only by a quorum at a public meeting. By a majority vote of those members present the Commission may convene in executive session. However, all formal votes to record the Commission's decision shall only be taken during periods in which such meetings are open to the public.

Section 7.6 Special meeting may be called by the Chairman or by a majority of the Commission, providing that not less than 24 hours notice by writing or telephone is given to each member of the Commission. Such meetings shall be executive sessions at which no formal votes shall be taken.

Section 7.7 All public and special meetings shall be held in City Hall or other public facility with proper public notification.

Agenda

Section 8 The Secretary shall prepare the proposed Agenda for each public meeting, with the Chairman not less than ten days prior to the date of such meeting, and shall transmit a copy of the Agenda to each Commission member on such date of preparation. No items will appear on such proposed Agenda except those for which applications or written requests have been received not less than thirty days prior to the date of the public monthly meeting as set forth in Section 7 above. The Commission may amend the proposed Agenda by a majority vote of those members present.

Section 9.1 The order of business at public meetings shall be as follows:

- (a) Roll Call.
- (b) Adoption of Minutes of previous meetings.
- (c) Approval of Agenda
- (d) Communications
- (e) Report of Officers and Committees
- (f) Old Business
- (g) New Business
- (h) Referrals, Administrative Reviews, Petitions, Applications and Other Matters presented by the public.

Section 9.2 The order of business at special meetings shall be as determined by the Commission.

Section 9.3 At all meetings and hearings attended by the public, the Chairman shall make a brief statement indicating the nature of each item on the Agenda, except that in the case of petitions, applications and other matters presented by the public, such statement shall be made by the person introducing the matter.

Section 9.4 Minutes of all public and special meetings of the Commission shall form part of the records of the Commission and shall be available to the public when duly adopted by the Commission.

Committees

Section 10.1 There may be a Subdivision Committee appointed by the Chairman with the approval of the Commission at the annual organization meeting. It shall consist of three members who shall serve until the next annual meeting. The Chairman may make appointments to bring the committee to full strength in the event of temporary absence of committee members.

Section 10.2 Other Committees may be appointed by the Chairman from time to time with the approval of the Commission.

Public Hearings

Section 11.1 The Commission shall hold public hearings as required by statute and applicable ordinances of the City. In addition to those required by law, the Commission may at its discretion hold public hearing when it considers that such hearings will be in the public interest.

Amendments

Section 12 These By-Laws may be amended at any time by a majority vote of the entire membership of the Commission.

Adopted September 15, 1959
Amended November 17, 1975
Amended March 16, 1981
Amended March 19, 1981
Amended June 17, 1991
Amended January 25, 1995
Amended April 26, 1995
Amended August 16, 2010



AUGUST 23, 2018

OPEN HOUSE

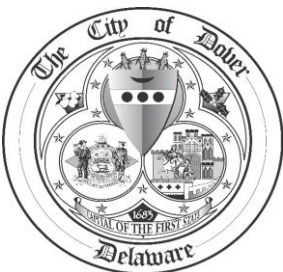
EVENT FOR THE

COMPREHENSIVE

PLAN

Thursday, August 23rd from 3:00pm to 7:00pm
at Dover Public Library, 35 Loockerman Plaza
Meeting Rooms A&B
Presentations at 3:30pm and 5:30pm

Join us at the **Open House Event for the Comprehensive**



Plan. The City of Dover is creating a new Comprehensive Plan for 2019 and this is an opportunity for you to participate in its development. Stop by the Open House any time to visit with Staff and then hear Presentations on the project at specific times.

**Hear Updates on
Project**

**Learn about
Survey Results**

**View Preliminary
Maps**

**Provide your
Ideas and
Comments**

**Help Plan for the
future of Dover**

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**INFORMATION for discussion on development of the 2019 Comprehensive Plan
EXCERPT from 2008 Comprehensive Plan**

Table 1-1: Plan Chapter Goals:

<p>Natural Resources and Environmental Protection</p>	<p>Goal 1: Protect the Natural Environment</p> <p>Goal 2: Improve Watershed Quality</p> <p>Goal 3: Encourage Green Development and Sustainable Energy Practices</p>
<p>Historic Preservation</p>	<p>Goal 1: Preserve and Protect Historic Resources</p> <p>Goal 2: Provide and Promote Incentives for Preservation Activities</p> <p>Goal 3: Increase Public Information on Historic Resources</p> <p>Goal 4: Collaborate with Diverse Groups and Governments</p>
<p>Public Utilities and Community Infrastructure</p>	<p>Goal 1: Proactively Maintain Existing Infrastructure and Expand Infrastructure When Beneficial</p> <p>Goal 2: Enhance Infrastructure to Meet Community Needs</p> <p>Goal 3: Meet or exceed the State and Federal requirements of the NPDES permit and Stormwater Management Plan</p>
<p>Community Services and Facilities</p>	<p>Goal 1: Provide a System of Interconnected Open Space Areas and Recreational Opportunities</p> <p>Goal 2: The City must be prepared to face and quickly address potential disasters both natural and man-made.</p> <p>Goal 3: The City should provide and Maintain high quality police, fire, and ambulance services to all residents, properties, and visitors within Dover.</p> <p>Goal 4: The City should work to ensure the protection and preservation of its own resources ranging from natural, historic,</p>

	<p>and cultural including the physical facilities containing these resources.</p> <p>Goal 5: Protect and Preserve the City Owned Resources</p>
<p>Transportation</p>	<p>Goal 1: Preserve and Maintain the Existing Transportation System</p> <p>Goal 2: Increase Coordination with Agencies</p> <p>Goal 3: Develop and Expand Alternate Modes of Transportation</p> <p>Goal 4: Create Recommendations and Policies for Roadways and Development</p> <p>Goal 5: Air Quality: The Ozone Challenge</p>
<p>Economic Development</p>	<p>Goal 1: Attract and Retain High-Paying Quality Jobs by Targeting Large Firms and Businesses to Major Growth Areas in the City</p> <p>Goal 2: Revitalize Downtown Dover as a Vibrant Town Center Integrating the Hospital, the Colleges & Universities, the State and City Governments with Business (Retail and Professional), Housing and Tourism</p> <p>Goal 3: Ensure that Zoning Requirements Encourage the Uses Desired and Do Not Create Impediments to Desired Business Growth</p> <p>Goal 4: Create an Environment for Long Term Economic Investment in Dover Focusing on Green Technology and Entrepreneurial Businesses</p> <p>Goal 5: Actively Market Garrison Oak</p>

<p>Housing & Community Development</p>	<p>Goal 1: Encourage Balanced Housing Opportunities for All Income Levels and Phases in Life</p> <p>Goal 2: Preserve Existing Housing Stock</p> <p>Goal 3: Provide Safe Livable Neighborhoods</p> <p>Goal 4: Provide Homeownership Opportunities for Low/Moderate Income</p>
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Source: *The 2008 Dover Comprehensive Plan*

Table 1-2: Land Development Plan Goals

<p>Residential Land Uses</p>	<p>To develop and maintain an adequate supply of housing of varying type, size, and densities that are aesthetically pleasing and located within neighborhoods designed or redesigned to promote convenience, conservation, and access to the greater community, but which are properly buffered through distance and landscaping from incompatible land uses.</p>
<p>Downtown Dover</p>	<p>Enhance the role of Downtown Dover as a major employment, residential and commercial center as well as the symbolic and cultural heart of the community, and recognize its unique heritage and historic resources. Provide for mixed use development allowing greatest variation of uses.</p>
<p>Mixed Use</p>	<ul style="list-style-type: none"> • Continue to facilitate project development processes for construction in accordance with approved Master Plan Pattern Book and TND concept. • Support efforts to implement the road and walking trail connections linking Eden Hill Farm TND to the existing circulation network.

	<ul style="list-style-type: none"> • Encourage quality architecture within the development in accordance with the Pattern Book and intent of the TND Ordinance. • Participate in the planning for the project's open space areas including the area of the historic farm complex, alleys, and southern portion of the project near Puncheon Run.
Commercial Land Uses	Maintain and improve the City's position as a regional commercial center, while providing its citizens convenient access to needed goods and services through well designed and spaced community and neighborhood commercial centers.
Government and Institutional Land Uses	Maintain and improve the City's position as a center of government, education, and medicine through support of existing institutions and encouraging well designed campuses that are integrated into the community and have room to expand.
Employment Centers	Create a more vibrant, growing economy with a broader range of job opportunities through an increase in office and industrial development in appropriate and designated areas.
Dover Air Force Base	Create a favorable and compatible environment for Dover Air Force Base through a resolute commitment to provide all reasonable planning accommodations to protect the Base.
Public Open Space	Preserve and enhance the existing network of public parks, and expand the public park system to meet the needs of the current and future population. Special consideration should be given to preserving natural features, such as Silver Lake and the St. Jones River, for public use and aesthetic enjoyment, and to make

	future and existing parks more accessible via a citywide network of bicycle and pedestrian pathways
Private Open Space	Promote the construction of neighborhood parks and playgrounds within new residential developments and cooperate with the private sector and community homeowners associations to help them meet their recreational needs. Support the creation of new private efforts that help meet the recreational needs of the community.
Agricultural Land Uses	Support the continuation of existing active agricultural uses as a viable and important component of the land use and open space mix in Dover, especially where agricultural lands form logical transitions between developed areas in the City and rural, agricultural areas in the County.
Environmentally Sensitive Areas	Protect the natural environment and prevent the destruction of property through the preservation of significant ecological systems which naturally work to enhance the quality of life for residents.

Source: The 2008 Dover Comprehensive Plan, Chapter 12, Land Development Plan