Council Committee of the Whole Agenda

September 15, 2020 - 6:00 p.m.

This meeting will be held remotely via WebEx. Public participation information is as follows:

Phone: 1-408-418-9388

Link:
https://cityofdoverde.webex.com/cityofdoverde/onstage/g.php?MTID=e0d32bb1cfb0116929174862167f2a9a3

Event number: 173 586 9042

Event password: DOVER (if needed)

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Public comments are welcomed on any item and will be permitted at appropriate time. When possible, please notify the City Clerk (736-7008 or email at cityclerk@dover.de.us) should you wish to be recognized.

Utility Committee

Adoption of the Agenda

1. **Update #2 on Development of Provisions and Ordinances for Wireless Communications Facilities - Proposed WCF Ordinance and Proposed Small Wireless Communications Facility (SWCF) Design Manual**
   (Staff recommendation: Review of Proposed Draft Ordinance and Preliminary Draft Design Manual. Recommend forwarding Proposed Ordinance with Design Manual to City Council for First Reading and establishment of Public Hearing dates with Planning Commission and City Council. Draft Ordinance will need formatting into proper Ordinance format and review by City Solicitor. Preliminary Draft Small WCF Design Manual continues to be refined.)

2. **Approving the Form and Content of a Model Master License Agreement for Small Wireless Communication Facilities Attached to City of Dover Assets**
   (Staff recommendation: Approve the model Master License Agreement and authorize the City Manager to sign agreements with individual carriers.)

3. **Adjournment of Utility Committee meeting**

Legislative, Finance, and Administration Committee

Adoption of the Agenda

1. **Equalized Payment Plan Program (also known as Budget Billing) - Options**
   (Staff recommendation: Staff is providing two options as it relates to the Budget Billing Program. 1. Discontinuation of the Equalized Payment Plan program, thus requesting that it be removed from the Electric Service Handbook and Water / Wastewater Handbook as an available program. 2. Temporarily pause the budget billing program while the new accounting program is implemented. Restart the program in October 2021. This option does involve a cost to the City of approximately $18,000.00 and initiation of a $5.00 per customer per month charge.)

2. **Proposed Amendments to the Purchasing Policy**
   (Staff recommendation: Approval of recommended changes)

3. **Proposed Ordinance #2020-11 - Chapter 46 - Fire Prevention and Protection, Article II - Fire Department, Division 1 - Generally and Division 2 - Officers**
   (Staff recommendation: Adoption of Ordinance #2020-11)

4. **Proposed Amendments - Dover Human Relations Commission (Anderson, Rocha, and Sudler)**

5. **Status of Other Post-Employment Benefits (OPEB) and Pension Funds**
   (Staff recommendation: Information update only)

6. **Proposed Ordinance #2020-05 Amending Chapter 22 - Buildings and Building Regulations, Article IX - Lodginghouses and Article X - Rental Dwellings**
   (Staff recommendation: Information update only)

7. **Adjournment of Legislative, Finance, and Administration Committee meeting**

Parks, Recreation, and Community Enhancement Committee

Adoption of the Agenda

1. **Presentation - Delaware's State University - The Acquisition of Wesley College** (Dr. Tony Allen, President - Delaware State University)

2. **Presentation - Wilmington Hope Commission and Bobby Wilson**
   (Deferred by Committee on July 14, 2020)

3. **Presentation - Vines Community Project** (Reverend Carol Harris)

4. **Library Reopening Plan**
   (Staff recommendation: Opening a temporary computer lab beginning Sept. 28 with a partial capacity re-opening on Oct 26. If the Committee is in agreement the Committee should direct staff to proceed and revisit the reopening plan Oct. 20.)

5. **Police Athletic League (P.A.L.) Update**

6. **Adjournment of Parks, Recreation, and Community Enhancement Committee meeting**

Adjournment of Council Committee of the Whole meeting

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The agenda items as listed may not be considered in sequence. Pursuant to 29 Del.C. §1004(e)(2), this agenda is subject to change to include the addition or deletion of items, including executive sessions, which arise at the time of the meeting.

COMMITTEE ACTION FORM

PROCEEDING: Council Committee of the Whole – Utility Committee

DEPARTMENT OF ORIGIN: Department of Planning & Inspections and City Manager's Office
DATE SUBMITTED: September 9, 2020

PREPARED BY: Dave Hugg, Director of Planning & Inspections and Dawn Melson-Williams, Principal Planner & Matt Harline, Assistant City Manager

SUBJECT: Update #2 on Development of Provisions and Ordinances for Wireless Communications Facilities – Proposed WCF Ordinance and Proposed Small Wireless Communications Facility (SWCF) Design Manual

REFERENCE: Previous Wireless Communications Facilities presentations and discussion at Council Committee of the Whole – Utility Committee Meeting of February 11, 2020 and July 14, 2020. Potential amendments to the *Dover Code of Ordinances* including Appendix B: Zoning (*Zoning Ordinance).*

RELATED PROJECT: N/A

REVIEWED BY: City Manager's Office

EXHIBITS:

A – Draft of Wireless Communications Facilities Ordinance (WCF Ordinance 2 – Planning 9-9-2020

B – Preliminary Draft #2 (Mark-up 9-9-2020) of "City of Dover Small Wireless Communications Facility (SWCF) Design Manual"

EXPENDITURE REQUIRED: None

AMOUNT BUDGETED: None

FUNDING SOURCE (Dept./Page in CIP & Budget): N/A

TIME TIMETABLE: Formal Review and Adoption of the Ordinance and Design Manual Fall of 2020. Introduction of the Proposed Ordinance to the CCOW-Utility Committee on September 15, 2020.

RECOMMENDED ACTION: Review of Proposed Draft Ordinance and Preliminary Draft Design Manual. Recommend forwarding Proposed Ordinance with Design Manual to City Council for First Reading and establishment of Public Hearing dates with Planning Commission and City Council.

- Draft Ordinance will need formatting into proper Ordinance format and review by City Solicitor.
- Preliminary Draft Small WCF Design Manual continues to be refined.

BACKGROUND AND ANALYSIS

Staff is presenting a second update on the development of provisions related to Wireless Communications Facilities (WCF) in the City of Dover. In July 2020, the Utility Committee is provided the Preliminary Draft of an Ordinance to regulate all Wireless Communications Facilities and an accompanying Small WCF Design Manual that is specifically targeted to Small Wireless Communications Facilities (SWCF). This discussion and review are an update on project progress and refinement of the Draft Ordinance and Design Manual documents based on input from City Departments, comments from some industry representatives, review by specialized legal services, and Staff research. With this presentation, we hope to begin the formal review process for adoption of a Wireless Communication Facilities (WCF) regulations for the City of Dover.

BACKGROUND: The City has been working on setting the regulatory framework for Wireless Communications Facilities (WCF). The Ordinance and associated documents will establish regulations,

application & review processes, and fees. Wireless Communications Facility include Small Wireless Communications Facilities (SWCF) such as those attached to utility poles; Non-Tower Based Wireless Communications Facilities like those antennae attached to buildings or water towers; and Tower Based Wireless Communications Facilities such as monopoles and lattice or guyed towers. Locations of the facilities include those within public rights-of-way and on properties.

Discussions have occurred with industry representatives and City Staff in the Planning Department, Electric Department, Department of Public Works, and the City Manager's Office on the topic of WCFs. Initially, the City Manager's Office retained the services of the Cohen Law Group and Mike Roberts, an attorney with the firm drafted a model documents including an initial draft WCF ordinance, a draft Design Manual and a draft Master License Agreement. Since then the team of City Staff and Mr. Roberts have worked to refine the Proposed Ordinance and Design Manual documents. Since July the following additional work has occurred: checking *Zoning Ordinance* for needed amendments and any use of term conflicts and checking *Dover Code of Ordinances* as related to use of Right-of-way (Chapter 98: Streets) and license agreement provisions of Chapter 110. Also now proposed are the associated fees for Permits and Plan Applications. Except for final ordinance formatting and local legal review, the Proposed WCF Ordinance is essentially ready for introduction. Exhibit A is presented as a Proposed Ordinance to begin the formal review and adoption process.

- Exhibit A – Draft of Wireless Communications Facilities Ordinance (WCF Ordinance 2 – Planning 9-9-2020)

Associated with Small WCFs, the City of Dover is also working to develop a Design Manual. Over the past few months our research and discussions with industry representatives has helped us to understand and formulate the considerations for review of Small WCFs. Refinement of the Small WCF Design Manual and its coordination with the Draft Ordinance is ongoing as is the needed development of the Permit application forms and interdepartmental coordination of procedures. Exhibit B presents the current mark-up form of the Design Manual as this date (9/9/2020).

- Exhibit B – Preliminary Draft #2 (Mark-up) of "City of Dover Small Wireless Communications Facility (SWCF) Design Manual"

RECOMMENDED TIMELINE:

Introduce the Proposed Ordinance to the CCOW–Utility Committee	September 15
First Reading by City Council of the Proposed Ordinance with the Draft Design Manual	September 28
Planning Commission Meeting (Public Hearing and Recommendation)	October 19
Public Hearing/Final Reading and Adoption of Ordinance by City Council	November 9

CITY OF DOVER, DELAWARE
DRAFT OF WIRELESS COMMUNICATIONS FACILITIES ORDINANCE
(WCF Ordinance 2 – Planning 9-9-2020)

That Appendix B – Zoning, Article 5 – Supplementary Regulations of the Dover Code, be amended by inserting a new Section 23 – Wireless Communications Facilities, as follows:

Section 23. Wireless Communications Facilities

23.1 *Purpose and intent*. The purpose of this section is to establish uniform standards for the siting, design, permitting, construction, maintenance, and use of wireless communications facilities (WCF) in the City of Dover (referred to herein as the "City"). While the City recognizes the importance of wireless communications facilities in providing high quality communications service to its residents, the City also recognizes that it has an obligation to protect public safety and to minimize the adverse effects of such facilities through the standards set forth in the following provisions and as referenced.

23.11 By enacting these provisions, the City intends to:

(a) Promote the deployment of wireless communications facilities in the City while regulating their location and number to ensure the provision of necessary services;

(b) Provide for the managed development of wireless communications facilities in a manner that enhances the benefits of wireless communication and accommodates the needs of both City residents and wireless carriers in accordance with federal and state laws and regulations;

(c) Address new wireless technologies, including but not limited to, distributed antenna systems, data collection units, small cells, cable Wi-Fi and other wireless communications facilities;

(d) Establish procedures for the design, siting, construction, installation, maintenance and removal of small wireless communications facilities, non-tower based wireless communications facilities, and tower-based wireless communications facilities, in the City, including facilities both inside and outside the public rights-of-way;

(e) Preserve the character of the City's neighborhoods and corridors;

(f) Minimize the adverse visual effects and the number of such facilities through proper design, siting, screening, material, color and finish and by requiring that competing providers of wireless communications services collocate their commercial communications antennas and related facilities on existing wireless support structures where feasible;

(g) Promote the health, safety and welfare of the City's residents.

DRAFT WCF Version 2 Planning 9-9-2020

23.2 *Definitions.*

Accessory Equipment. Any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna. An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

Changes in height. Changes in height is measured from the original wireless support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (47 CFR §1.4001(b)(7)(i)(A)).

Collocation. The mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

Eligible Facilities Request. Any request for modification of an existing WCF that does not constitute a substantial change. Such request may involve: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

Emergency. A condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause facilities in the rights-of-way to be unusable and result in loss of the services provided.

Equipment Compound. An area surrounding or adjacent to a wireless support structure within which base stations, power supplies, or accessory equipment are located.

FCC. Federal Communications Commission.

Height of a Tower-Based WCF. The vertical distance measured from the ground level, including any base pad, to the highest point on a tower-based WCF, including antennae mounted on the tower and any other appurtenances.

Modification or *Modify.* The improvement, upgrade or expansion of existing wireless communications facilities or base stations on an existing wireless support structure or the improvement, upgrade, or expansion of the wireless communications facilities located within an existing equipment compound, if the improvement, upgrade, expansion or replacement does not substantially change the physical dimensions of the wireless support structure.

DRAFT WCF Version 2 Planning 9-9-2020

Non-Tower Wireless Communications Facility (Non-Tower WCF). A wireless communications facility located or collocated on existing structures, such as, but not limited to buildings, water towers, electrical transmission towers, utility poles, light poles, traffic signal poles, flag poles and other similar structures that do not require the installation of a new tower. This term includes the replacement of an existing structure with a similar structure that is required to support the weight of the proposed WCF. This definition excludes any installation constituting a Small Wireless Communications Facility.

Person. Individuals, corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, corporations and other entities established pursuant to statutes of the State of Delaware, provided that "Person" does not include or apply to the City, or to any department or agency of the City.

Replacement. The replacement of existing wireless communications facilities on an existing wireless support structure or within an existing equipment compound due to maintenance, repair or technological advancement with equipment that does not result in increased wind or structural loading, is substantially similar in size and weight as the wireless communications facilities initially installed, and that does not substantially change the physical dimensions of the existing wireless support structure.

Small Wireless Communications Facility (Small WCF). A wireless communications facility that meets the following criteria:

(1) The structure on which antenna facilities are mounted
    a) is 50 feet or less in height, or
    b) is no more than 10 percent taller than other adjacent structures, or
    c) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and
(2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three cubic feet in volume; and
(3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and
(4) The facilities do not require antenna structure registration under 47 CFR Part 17; and
(5) The facilities are not located on Tribal lands, as defined under 36 CFR §800.16(x); and
(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR §1.1307(b).

Stealth Technology. Camouflaging or screening methods applied to wireless communications facilities and accessory equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in a manner appropriate to the site's context and surrounding environment. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

Substantial Change. A modification to an existing WCF substantially changes the physical dimensions of a wireless support structure if it meets any of the criteria set forth in 47 CFR §1.6100, as amended.

DRAFT WCF Version 2 Planning 9-9-2020

Tower-Based Wireless Communications Facility (Tower-Based WCF). Any structure that is used for the primary purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles. This definition excludes any installation meeting the definition of a Small Wireless Communications Facility.

Wireless. Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

Wireless Communications Facility (WCF). An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

Wireless Communications Facility Applicant (WCF Applicant). Any person that applies for a wireless communications facility building permit, zoning/conditional use approval, and/or permission to use the public right-of-way or other City owned land or property.

Wireless Support Structure. A freestanding structure, pole, tower, or other building, whether or not it has an existing antenna facility, that is used or to be used to support the placement or installation of a wireless communication facility for the provision of wireless service (whether on its own or comingled with other types of services).

23.3 *Applicability.* The terms and provisions of this section shall apply to wireless communication facilities in the City. As defined, each type of WCF has specific allowable locations, development regulations, and design standards as follows:

(a) Small WCF described in Article 5, Section 23.6.
(b) Non-Tower WCF described in Article 5, Section 23.7.
(c) Tower WCF described in Article 5, Section 23.8.

23.31 *Exceptions.* The activities by City residents to utilize satellite dishes, citizen and/or band radios, and Antennae for the purpose of maintaining television, phone, and/or internet connections at their residences for non-commercial activity shall be exempt from the regulations enumerated in this Section 23.

23.32 *Nonconforming Uses.* The following provisions shall apply to all buildings, support structures, and uses as related to wireless communication facilities:

(a) All types of WCFs shall be permitted to collocate upon existing non-conforming WCFs, wireless support structures, and other non-conforming structures subject to the provisions of this Section 23.
(b) Collocation of Antennae is permitted on non-conforming structures.
(c) Collocation of Non-Tower WCFs upon existing Tower-Based WCFs is encouraged even if the Tower-Based WCF is non-conforming as to use within a zoning district.
(d) WCF which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored at their former location but must otherwise comply with the terms and conditions of this Section 23.

DRAFT WCF Version 2 Planning 9-9-2020

23.4 *Type of Activity Determination.* The following provisions outline the types of wireless communication facility applications.

23.41 *Eligible Facilities Request.* The WCF Application Type is classified as an Eligible Facilities Request if the request for modification of an existing WCF that does not constitute a Substantial Change under 47 CFR §1.6100, as amended. The request may involve: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

23.42 *Substantial Change Activity.* The WCF Application Type is classified as a Substantial Change Activity if the modification substantially changes the physical dimensions of a wireless support structure by meeting any of the criteria set forth in 47 CFR §1.6100, as amended, relating to height of the support structure or addition of new appurtenances or equipment cabinets.

23.43 *New Facility.* The WCF Application Type is classified as a New Facility if it involves the construction and placement of a new wireless support structure and does not meet the definition of Small WCF.

23.44 *Small WCF*. The WCF Application Type is classified as a Small WCF if the proposed antennas, accessory equipment and support structure (whether an existing, replacement or new structure) comply with the volume and height parameters set forth in the definition of Small WCF.

23.5 *Application Procedures*. The following provisions outline the procedures for wireless communication facility applications. Policies and procedures for the administration of the WCF permitting and review process shall be developed by the City Manager and City Planner.

23.51 *Location within Public Right-of-way.* WCF Applicants proposing a WCF to be located within the public right-of-way, shall be required to obtain application approvals as follows:

(a) *Pole Attachment Process*. Compliance with the procedures found in Dover Code Ordinances, Chapter 110 – Utilities, Section 110-32 Pole Attachment, for a WCF proposed for attachment to Dover Electric Department facilities.

(b) *Master license agreement required.* Any WCF Applicant for a WCF proposed for attachment to a utility pole owned or controlled by the City of Dover Electric Department shall first enter into a valid Master License Agreement with the City authorizing such attachment. No WCF shall be permitted to be attached to such utility poles without proof a valid Master License Agreement being provided as part of the permit application.

(c) *Permit – Use of Rights-of-Way.* Obtain a Right-of-Way Permit from the City in accordance with permit policies and procedures pursuant to Dover Code of Ordinances, Chapter 98 – Streets, Sidewalks, Storm Sewers and Other Public Spaces, for a WCF proposed with City rights-of-way.

(d) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.

DRAFT WCF Version 2 Planning 9-9-2020

(e) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 for the type of WCF.
(f) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

23.52 *Compliance with Zoning Ordinance.* The following section of the zoning ordinance shall be adhered to, as applicable, in the approval of a WCF Application:

(a) *Architectural Review Certificate.* WCF located within the Historic District (H) shall be required to obtain an Architectural Review Certificate pursuant to Article 3, Section 21 and Article 10, Section 3 of this ordinance.
(b) *Airport environs.* Locations within the Airport Environs Overlay Zone (AEOZ) shall document compliance pursuant to Article 3, Section 22 of this ordinance.
(c) *Environmentally sensitive areas.* Location shall document compliance with the environmental protection measures for flood hazard areas and waterbodies and wetlands pursuant to Article 5, Section 11 of this ordinance.

23.53 *Eligible Facilities Request.* WCF Applicants proposing an Eligible Facilities Request shall be required to obtain application approvals as follows:

(a) *Type.* WCF Applicant shall designate in writing that the application constitutes an Eligible Facilities Request pursuant to 47 CFR §1.6100 and as defined by this Section 23.
(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(c) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 for the type of WCF.
(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

23.54 *Substantial Change Activity.* WCF Applicants proposing a Substantial Change Activity shall be required to obtain application approvals as follows:

(a) *Type.* WCF Applicant shall designate in writing that the application constitutes a Substantial Change Activity as defined by this Section 23.
(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(c) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 based on the type of facility.
(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

DRAFT WCF Version 2 Planning 9-9-2020

23.55 *New Facilities.* WCF Applicants proposing a New Facility located in a public right-of-way shall be subject to the provisions of Section 23.51. WCF Applicants proposing a New Facility meeting the definition of Tower-Based WCF outside of a public right-of-way of shall be required to obtain application approvals as follows:

(a) *Conditional use authorization required*. Any WCF Applicant proposing the construction of a new facility shall first obtain conditional use authorization pursuant to Appendix B, Article 10 Section 1 of the Dover Code.
(b) *Documentation*. The conditional use application shall demonstrate that the proposed WCF complies with all applicable provisions of Section 23 based on the type of facility.
(c) *Conditional use application requirements.* The additional requirements for conditional use applications shall include the following:
    i. A description of the type and manufacturer of the proposed transmission/radio equipment, the power in watts at which the WCF Applicant transmits, and any relevant related tests conducted by the WCF Applicant in determining the need for the proposed site and installation.
    ii. Documentation demonstrating that the proposed Tower-Based WCF complies with all applicable state and federal laws and regulations concerning aviation safety.
    iii. Evidence that the owner of the property on which the Tower-Based WCF is proposed has granted authorization to construct and operate the Tower-Based WCF.
    iv. Written certification from a structural engineer licensed in the State of Delaware that the proposed WCF's ability to meet the structural standards offered by either the Electronic Industries Association or the Telecommunication Industry Association and certify the proper construction of the foundation and the erection of the structure.
    v. An application for a new Tower-Based WCF shall demonstrate that the proposed Tower-Based WCF cannot be accommodated on an existing or approved structure or building. The Planning Commission may deny an application to construct a new Tower-Based WCF if the WCF Applicant has not made a good faith effort to mount the Antenna(s) on an existing structure. The WCF Applicant shall address the viability of any existing Wireless Support Structures within a one quarter (1/4) mile radius of the site proposed and demonstrate that such alternative candidates are inferior with respect to technical feasibility, cost, or terms of use.

(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(c) *Documentation.* WCF application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 based on the type of WCF.
(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.

23.56 *New Small WCF*. WCF Applicants proposing a new Small WCF that does not qualify as an Eligible Facilities Request shall be required to obtain application approval as follows:

DRAFT WCF Version 2 Planning 9-9-2020

(a) *Type.* WCF Applicant shall designate in writing that the application constitutes a Small WCF as defined by this Section 23.
(b) *Permit.* Obtain a WCF Building Permit from the City in accordance with applicable permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit of the City of Dover Code.
(c) *Documentation. WCF* application shall also be accompanied by documentation demonstrating that the proposed WCF complies with all applicable provisions of this Section 23 based on the type of facility.
(d) *Fee*. Each application to be approved under this section shall be accompanied by fees as provided for in Appendix F – Fees and Fines.
(e) *New Wireless Support Structures*. An application involving installation of a new Wireless Support Structure shall demonstrate that the proposed Small WCF cannot be reasonably accommodated on an existing or approved structure or building within the right-of-way. The WCF Applicant shall address the viability of any existing Wireless Support Structures within 100 feet of the site proposed and demonstrate that such alternative candidates are inferior with respect to technical feasibility, cost, or terms of use.

23.57 *Timing of Approvals.* Each specific type of WCF is subject to specific approval timeframes. Such timeframes shall be subject to the tolling procedures established by the FCC.

(a) *Small WCF:* Timing of Approval for all Small WCF facilities that do not meet the definition of Eligible Facilities Request. Once a WCF application is submitted these are the approval time lines:
    i. *Notification of Incomplete Applications for Small WCF*. Within ten (10) days of receipt of an application for a Small WCF, the City shall notify the WCF Applicant in writing of any additional information required to complete application.
    ii. *Approval Timeframe – Collocation.* Within sixty (60) days of receipt of an application for a collocation of a Small WCF on a preexisting Wireless Support Structure, the City shall make a final decision on whether to approve the application and the City shall notify the WCF Applicant in writing of such decision.
    iii. *Approval Timeframe – New Facility*. Within ninety (90) days of receipt of an application for a Small WCF requiring the installation of a new Wireless Support Structure, the City Planning Department shall make a final decision on whether to approve the application and shall notify the WCF Applicant in writing of such decision.

(b) *Non-Tower WCF:* Timing of Approval for all Non-Tower WCF facilities that do not meet the definition of Eligible Facilities Request. Once a WCF application is submitted these are the approval time lines:
    i. *Notification of Incomplete Applications for Non-Tower WCF*. Within thirty (30) days of receipt of an application for a WCF on a preexisting wireless support structure, the City shall notify the WCF Applicant in writing of any additional information required to complete application.

DRAFT WCF Version 2 Planning 9-9-2020

ii. *Approval Timeframe – Substantial Change.* Within ninety (90) days of receipt of an application for a Non-Tower WCF on a preexisting Wireless Support Structure that Substantially Changes the Wireless Support Structure to which it is attached, the City shall make a final decision on whether to approve the application and the City shall notify the WCF Applicant in writing of such decision.

iii. *Approval Timeframe – Not Substantial Change.* Within sixty (60) days of receipt of an application for a Non-Tower WCF on a preexisting Wireless Support Structure that does not Substantially Change the Wireless Support Structure to which it is attached, the City Planning Department shall issue the required building permit authorizing construction of WCF.

(c) *Tower-Based WCF:* Timing of Approval for all Tower-Based WCF facilities that do not meet the definition of Eligible Facilities Request. Once a WCF application is submitted these are the approval time lines:

i. *Notification of Incomplete Applications for Tower-Based WCF*. Within thirty (30) days of receipt of an application for a Tower-Based WCF, the City shall notify the WCF Applicant in writing of any additional information required to complete application.

ii. *Approval Timeframe* - All applications for Tower-Based WCFs shall be acted upon within one hundred fifty (150) days of the receipt of a fully completed application for the approval of such Tower-Based WCF and the City shall advise the WCF Applicant in writing of its decision. If additional information was requested by the City Planning Department to complete an application, the time required by the WCF Applicant to provide the information shall not be counted toward the one hundred fifty (150) day review period

23.58 *Fees*. Each application for permit or plan approval shall be accompanied by a fee as provided for in Appendix F – Fees and Fines.

(a) *Permit fees*. The City may assess appropriate and reasonable permit fees directly related to the City's actual costs in reviewing and processing the application for approval of a WCF, as well as related inspection, monitoring and related costs. Such permit fees shall be established by Appendix F – Fees and Fines and shall comply with the applicable requirements of the FCC.

(b) *Reimbursement for WCF in Right-of-way*. In addition to permit fees as described in this section, every Small WCF in the right-of-way is subject to the City's right to recover its actual costs incurred as a result of the Small WCF's presence in the right-of-way, including, but not limited to, the costs of the administration and performance of all reviewing, inspecting, permitting, supervising and other right-of-way management activities by the City. The owner of each Small WCF shall reimburse the City for the City's costs reasonably incurred in connection with the activities described above. All fees shall comply with applicable state and federal law and not exceed amounts presumed reasonable by the FCC.

DRAFT WCF Version 2 Planning 9-9-2020

23.6 *Small Wireless Communication Facilities (Small WCF)*. The following regulations shall apply to all Small WCF and associated Wireless Support Structures as defined by this Section 23.

(a) *Location.*

i. Small WCF are permitted to be located in all City zoning districts subject to the application requirements of this Section 23.

ii. Small WCF are subject to compliance with Zoning Ordinance provisions outlined in Section 23.52.

iii. Small WCF are permitted to be located within the public right-of-way subject to application requirements of this Section 23.

(b) *Development Regulations.*

i. *Sizing*. To be considered as Small WCF, the WCF must comply with the criteria established in the definition of Small Wireless Communications Facility in Section 23.2.

ii. *Height*. The total height of a Small WCF shall comply with the maximum height permitted in the zoning district of the property to the extent technically feasible. In accordance with industry standards, Small WCF Applicants must submit documentation to the City justifying the total height of the WCF.

iii. *Height.* The total height of a Small WCF when located in the public right-of-way shall be no more than ten percent taller than the tallest existing utility pole or wireless support structure within a two hundred fifty (250) radius of the proposed WCF or fifty (50) feet above ground level, whichever is greater.

iv. *Placement.* All Small WCF shall comply with the applicable requirements of the Americans with Disabilities Act and all applicable requirements pertaining to streets and sidewalks, as codified in Chapter 98 of the Dover Code.

v. *Placement*. Small WCF in the public right-of-way requiring the installation of a new Wireless Support Structure shall not be located directly in front of any building entrance or exit such that it would interfere with ingress or egress.

vi. *Accessory equipment*. Small WCF and Accessory Equipment shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, create safety hazards to pedestrians and/or motorists, or to otherwise inconvenience public use of the ROW as determined by the City.

(c) *Design standards.* All Small WCF shall be designed to meet applicable requirements of the City "Small Wireless Communications Facility Design Manual," a copy of which is kept on file at the City Planning Department.

23.7 *Non-Tower Wireless Communication Facilities (Non-Tower WCF)*. The following regulations shall apply to all Non-Tower WCFs as defined by this Section 23 and that do not meet the definition of a Small WCF.

(a) *Location.*

i. Non-Tower WCF are permitted to locate in all City zoning districts subject to the application requirements of this Section 23.

ii. Non-Tower WCF are subject to compliance with Zoning Ordinance provisions outlined in Section 23.52.

DRAFT WCF Version 2 Planning 9-9-2020

iii. Non-Tower WCF are permitted to be located within the public right-of-way subject to application requirements of this Section 23.
iv. Non-Tower WCF shall be collocated on existing wireless support structures, such as poles, certain existing buildings or Tower-Based WCF.
v. *Historic buildings*. Non-Tower WCF may be located within one hundred (100) feet of any property, or on a building or structure that is listed on the National Register of Historic Places if an approved Architectural Review Certification is obtained pursuant to Article 10, Section 3 of this ordinance.

(b) *Prohibitions on certain structures.* Non-Tower WCF shall not be located on one-family detached dwellings, one-family attached dwellings, semi-detached dwellings, duplexes, townhouses, manufactured homes, mobile homes, modular homes, or any residential accessory structure.

(c) *Development Regulations.*
i. *Sizing*. To be considered as Non-Tower WCF, the WCF must comply with the criteria established in the definition of Non-Tower Wireless Communications Facility in Section 23.2.
ii. *Height*. The total height of a Non-Tower WCF shall not exceed the maximum height permitted in the zoning district. In accordance with industry standards, Non-Tower WCF Applicants must submit documentation to the City justifying the total height of the WCF.
iii. *Replacement of Existing Support Structure.* The replacement of an existing support structure with a similar structure that is required to support the weight of the proposed WCF is allowed.
iv. *Accessory Equipment Buildings.* If Accessory Equipment is to be located in a separate building, the building shall comply with the minimum requirements for accessory structure in the applicable zoning district.
v. *Fences.* A security fence with a minimum height of six (6) feet and a maximum height of eight (8) feet shall surround any separate equipment compound located outside the right-of-way.
vi. *Access.* Vehicular access to the accessory equipment building or equipment compound shall not interfere with the parking or vehicular circulations on the site for the principal use.

(d) *Design Standards*. Where appropriate, Non-Tower WCF shall employ Stealth Technology and be treated to match the Wireless Support Structure in order to minimize aesthetic impact. The Stealth Technology utilized by the WCF Applicant shall be subject to the application approval process.

23.8 *Tower-Based Wireless Communication Facilities (Tower-Based WCF).* The following regulations shall apply to all Tower-Based WCFs as defined by this Section 23 and that do not meet the definition of a Small WCF.

(a) *Conditional uses*. Tower-Based WCF are permitted outside the public Rights-of-Way in certain zoning districts upon conditional use approval of the Planning Commission in accordance with the procedures and subject to the general conditions set forth in Article 10 Section 1 of this ordinance.

DRAFT WCF Version 2 Planning 9-9-2020

i. In approving the conditional use, the Planning Commission may take into consideration the following:
    a. the aesthetic impact of the proposed facility, including but not limited to whether its decision upon the subject application will promote the harmonious and orderly development of the zoning district involved;
    b. encourage compatibility with the character and type of development existing in the area;
    c. prevent a negative impact on the aesthetic character of the community;
    d. preserve woodlands and trees existing at the site to the greatest possible extent; and
    e. encourage sound engineering and land development design and construction principles, practices and techniques.

ii. *Additional antennae*. As a condition of approval for all Tower-Based WCF, the WCF Applicant shall provide with a written commitment that it will allow a minimum of two (2) other service providers the opportunity to Collocate Antennae on Tower-Based WCF where technically feasible.

(b) *Location.*

i. Tower-Based WCF are conditionally permitted to locate in the nonresidential zones Nonresidential zones are defined in Article 12 – Definitions of this ordinance.

ii. *Exception*. Tower-Based WCF in the IPM3 (Industrial Park Manufacturing Zone – Industrial Aviation and Aeronautics Center) zoning district are only allowed in support of aviation, aeronautics, or related operation per Article 3, Section 20B of the ordinance.

iii. Tower-Based WCF are subject to the application requirements of this Section 23.

iv. Tower-Based WCF are subject to compliance with zoning ordinance provisions outlined in Section 23.52.

v. *Historic places*. Tower-Based WCF may be located within one hundred (100) feet of any building or structure that is listed on the National Register of Historic Places if an approved Architectural Review Certification is obtained pursuant to Article 10, Section 3 of this ordinance.

(c) *Uses on Property*.

i. *Principal use*. A Tower-Based WCF shall be permitted as a sole principal use on a lot.

ii. *Combined with another use*. A Tower-Based WCF may be permitted on a property with an existing use, or on a vacant parcel in combination with another permitted use.

iii. *Existing uses*. The existing use on the property may be any permitted use in the applicable zoning district and need not be affiliated with the WCF.

iv. *Ability to use.* Where applicable, the WCF owner shall present documentation that the property owner has granted an easement or other property right for the proposed facility.

DRAFT WCF Version 2 Planning 9-9-2020

(d) *Development Regulations*.

i. *Minimum lot area*. The minimum lot area shall comply with the requirements for the applicable zoning district and shall be the area needed to accommodate the Tower-Based WCF and guy wires, the equipment building, security fence, and buffer planting.

ii. *Height.* Tower-Based WCFs shall be designed and kept at the minimum functional height. The maximum total height of a Tower-Based WCF shall not exceed the one hundred fifty (150) feet. No WCF Applicant shall have the right under these regulations to erect a tower to the maximum height specified in this section unless it proves the necessity for such height.

iii. *Minimum setbacks*. The minimum distance between the base of a Tower-Based WCF and any property line or street Right-of-Way line shall equal 110% of the proposed height of the Tower-Based WCF, unless the WCF Applicant shows to the satisfaction of the Planning Commission that the proposed Tower-Based WCF has been designed in such a manner that a lesser setback will have no negative effects on public safety.

(e) *Design Standards.*

i. *Multiple Antennae.* Any proposed Tower-Based WCF shall be designed structurally to accommodate both the WCF Applicant's Antennae and at least two (2) comparable Antennae for future users.

ii. *Security.* Any Tower-Based WCF shall be equipped with an anti-climbing device, as approved by the manufacturer.

iii. *Lighting*. No Tower-Based WCF shall be artificially lighted, except as required by law. If lighting is required, the WCF Applicant shall provide a detailed plan for sufficient lighting, demonstrating as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

iv. *Surrounding environs.* Existing vegetation, trees and shrubs located within proximity to the Tower-Based WCF structure shall be preserved to the maximum extent possible.

v. *Fences.* A security fence having a minimum height of six (6) feet and a maximum height of eight (8) feet shall surround any Tower-Based WCF, as well as guy wires, equipment compound or housing WCF equipment.

vi. *Screening*. A screen of evergreen trees planted eight (8) feet on center, each at least four (4) feet in height, shall surround the Tower-Based WCF and security fence. Existing vegetation shall be preserved to the maximum extent possible and landscaping is not required where landscaping already exists

vii. *Accessory equipment*. Where feasible, Accessory Equipment associated, or connected, with a Tower-Based WCF shall be placed underground. Any above-ground Accessory Equipment associated or connected with a Tower-Based WCF shall be screened from public view using Stealth Technology. All ground-mounted Accessory Equipment, utility buildings and accessory structures shall be architecturally designed to blend into the environment in which they are situated.

viii. *Accessory equipment buildings.* If Accessory Equipment is to be located in a separate building, the building shall comply with the minimum requirements for accessory structures in the applicable zoning district.

DRAFT WCF Version 2 Planning 9-9-2020

ix. *Accessory equipment*. Accessory Equipment not exceeding five hundred (500) square feet in area shall be permitted for each unrelated company sharing space on the Tower-Based WCF.

x. *Access road*. Where necessary, an access road, turnaround space and parking shall be provided to ensure adequate Emergency and service access to Tower-Based WCF. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road grades shall closely follow natural contours to assure minimal visual disturbance and minimize soil erosion.

xi. *Visual Appearance*. Tower-Based WCF shall employ Stealth Technology which may include painting or finish of the tower portion. All Tower-Based WCF and Accessory Equipment shall be aesthetically and architecturally compatible with the surrounding environment and shall maximize the use of a like facade to blend with the existing surroundings and neighboring buildings to the greatest extent possible.

23.9 *General Requirements for Wireless Communication Facilities.* The following shall apply to all types of wireless communication facilities. Each application for a WCF shall require proof of compliance with the following.

23.91 *Standards for Wireless Communication Facilities.*

i. *Wind and ice*. Each WCF shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

ii. *Aviation safety*. WCF shall comply with all federal and state laws and regulations concerning aviation safety.

iii. *Interference*. WCF shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services by occupants of nearby properties.

iv. *Radio frequency emissions.* WCF shall not, by itself or in conjunction with other WCFs existing on the same structure at the time of installation, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office of Engineering Technology Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

v. *Signage.* WCF owners shall post a sign in a readily visible location identifying the name, phone number of a party to contact in the event of an Emergency, and permit number. The only other signage permitted on the WCF shall be those required by the FCC, or any other federal or state agency.

vi. *Noise.* WCF shall be operated and maintained so as not to produce noise in excess of applicable noise standards under state law and the City Code, except in Emergency situations requiring the use of a backup generator, where such noise standards may be exceeded on a temporary basis only.

vii. *Engineer seal and signature*. All plans and drawings for a WCF shall contain a seal and signature of a professional structural engineer, licensed in the State of Delaware.

DRAFT WCF Version 2 Planning 9-9-2020

viii. *FCC license*. Each Person that owns or operates a Tower-Based WCF shall submit a copy of its current FCC license, including the name, address, and Emergency telephone number for the operator of the facility.

23.92 *Maintenance and Care of Wireless Communications Facilities.*

i. *Standard of care*. Any WCF shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the American National Standards Institute (ANSI) Code, National Electrical Safety Code, National Electrical Code, National Association of Tower Erectors, or to the industry standard applicable to the structure.

ii. *Maintenance*. Any WCF shall at all times be kept and maintained in good condition, order and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any Person or damage any property in the City. Such maintenance shall be performed to ensure the upkeep of the WCF in order to promote the safety and security of the City's residents and utilize industry standard technology for preventing failures and accidents. The following maintenance requirements shall apply:

   a. The WCF shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or Emergency repair.
   b. Such maintenance shall be performed to ensure compliance with applicable structural safety standards and radio frequency emissions regulations.
   c. All maintenance activities shall conform to industry maintenance standards.

iii. *Lighting*. The WCF Applicant shall promptly report any outage or malfunction of FAA-mandated lighting to the appropriate governmental authorities and to the City.

iv. *Graffiti*. Any graffiti on the WCF or on any Accessory Equipment shall be removed at the sole expense of the owner within thirty (30) days of notification by the City.

23.92 *Inspection of Wireless Communication Facilities.* The City reserves the right to inspect any WCF to ensure compliance with the provisions of the Appendix B: Zoning and any other provisions found within the City Code or state or federal law. The City and/or its agents shall have the authority to enter the lease area of any property upon which a WCF is located at any time, upon reasonable notice to the operator, to ensure such compliance.

23.93 *Construction and Repairs in the Right-of-way*.

i. *Work in Right-of-Way.* The City of Dover Electric Department and the City of Dover Public Works Department, in consultation with the City Planning Department, shall determine the time, place and manner of construction, maintenance, repair and/or removal of all Small WCF in the ROW based on public safety, traffic management, physical burden on the ROW, and related considerations. All construction, maintenance, repair and/or removal of Small WCF shall comply with the applicable requirements of the City code.

ii. *Pole Repairs.* In the event of damage to a Small WCF attached to a utility pole owned or controlled by the City of Dover Electric Department, the owner of the Small WCF shall be solely responsible for all costs associated with the repair of the

DRAFT WCF Version 2 Planning 9-9-2020

Small WCF, unless such damage was caused by the City's own negligence or willful misconduct.

iii. *Repairs of City property*. In the event of damage to City property during installation of any WCF, including utility poles, streets, sidewalks, streetlights, signs, or other infrastructure, the company responsible for the damage shall make repairs accepted by the City or shall reimburse the City for the cost of such repairs.

iv. *Change or Alteration Required.* Within ninety (90) days following written notice from the City, or such longer period as the City determines is reasonably necessary or such shorter period in the case of an emergency, an owner of a Small WCF in the ROW shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any WCF when the City, consistent with its police powers and applicable Public Utility Commission regulations, determines that such removal, relocation, change or alteration is reasonably necessary under the following circumstances:

a. The construction, repair, maintenance or installation of any City or other public improvement in the right-of-way;
b. The operations of the City or other governmental entity in the Right-of-Way;
c. Vacation of a street or road or the release of a utility easement; or
d. An Emergency as determined by the City.

In such cases the City will make reasonable efforts to assist the WCF owner in identifying and permitting an alternate location for the WCF.

23.94 *Removal*. In the event that use of a WCF is to be discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued and removed. Unused or abandoned WCF, or portions of WCF, shall be removed as follows:

i. Complete removal of the structure of a Tower-Based WCF shall require a Demolition Permit in accordance with permit policies and procedures pursuant to Appendix B, Article 8, Section 1 – Building Permit.

ii. Any unused portions of Tower-Based WCF, including Antennae, shall be removed within ninety (90) days of the time of cessation of operations. All Replacements of portions of a Tower-Based WCF previously removed are subject to the provisions of this Section 23.

iii. All used or abandoned WCFs and Accessory Equipment shall be removed from the wireless support structure within ninety (90) days of the cessation of operations at the site unless a time extension is approved by the City.

iv. If the WCF or Accessory Equipment is not removed from the wireless support structure within ninety (90) days of the cessation of operations at a site, or within any longer period approved by the City, the WCF and/or associated facilities and equipment may be removed by the City and the cost of removal assessed against the owner of the WCF.

That Appendix B – Zoning, Article 12 – Definitions of the Dover Code, be amended by inserting the following in correct alphabetical order:

DRAFT WCF Version 2 Planning 9-9-2020

*Antenna: A*n apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

Wireless Communications Facility (WCF). An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

That Appendix B – Zoning, Article 3 Section 20B – Industrial park manufacturing zone – Industrial aviation and aeronautics center (IPM3) of the Dover Code, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout as follows:

20B.1 *Uses permitted*. In an IPM3 zone, no building or premises shall be used and no building or part of a building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following, and in accordance with performance standards review procedure as set forth in article 5 sections 8.2 and 8.6, and subject to site development plan approval as set forth in article 10, section 2:

~~20B.17 Radio or television broadcasting towers, telecommunications towers, antenna arrays, and receiving satellite dishes that support aviation, aeronautics, or related operations.~~

20B.2 *Conditional uses*. The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in article 10, section 1. ~~service establishments such as auto rental and travel agencies, commercial parking lots and garages, automobile service stations, car washes, banks, gift shops, newsstands, bookstores, restaurants, bars, medical offices, postal facilities, laundry services, and similar facilities available to airport or spaceport users and employees.~~ The application for conditional use shall clearly demonstrate the relationship of the proposed use to an existing or proposed airport or spaceport.

20B.21 Service establishments such as auto rental and travel agencies, commercial parking lots and garages, automobile service stations, car washes, banks, gift shops, newsstands, bookstores, restaurants, bars, medical offices, postal facilities, laundry services, and similar facilities available to airport or spaceport users and employees. The application for conditional use shall clearly demonstrate the relationship of the proposed use to an existing or proposed airport or spaceport.

20B.22 Radio or television broadcasting towers, tower based wireless communications facilities, antenna arrays, and receiving satellite dishes that support aviation, aeronautics, or related operations.

DRAFT WCF Version 2 Planning 9-9-2020

That Appendix B – Zoning, Article 5 Section 21 – Public utility infrastructure of the Dover Code, be amended be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikeout as follows:

Section 21. - Public utility infrastructure.

Public utility infrastructure shall be permitted in all zones and generally exempt from the requirements of Article 4—Zoning Bulk and Parking Regulations, except as provided in this section.

21.1 *Setback.* The minimum setback for public utility structures shall be equal to the setback of the zone in which the structure is located.

21.2 *Fences.* Fences shall be limited to a maximum height of eight feet above ground.

21.3 *Site development plan required.* 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.

21.4 *Exceptions.*

21.41 Electric power generation facilities shall be subject to all zoning requirements.

~~21.42 Private communications antennas and towers shall not be considered public utility infrastructure under the provisions of this subsection, and shall be subject to all zoning requirements.~~

21.42 Wireless communication facilities as defined in Article 5 Section 23 shall not be considered public utility infrastructure under the provisions of this subsection and shall be subject to the provisions of Article 5 Section 23.

That Chapter 98 – Street, Sidewalks, Storm Sewers and Other Public Places of the Dover Code, be amended by inserting a new Section 98-11 Placement of wireless communications facilities within rights-of-way.

Sec. 98-11. – Placement of wireless communications facilities within rights-of-way.

(a) *Applicability.* The provisions of this section shall apply to the use of rights-of-way as dedicated to the city or as otherwise maintained by the city.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Wireless Communications Facility (WCF). An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

DRAFT WCF

Wireless Support Structure. A freestanding structure, pole, tower, or other building, whether or not it has an existing antenna facility, that is used or to be used to support the placement or installation of a wireless communication facility for the provision of wireless service (whether on its own or comingled with other types of services).

(c) *Uses of Rights-of-way Permit required.* It shall be unlawful for any person to construct, erect or affix any wireless support structure within or that encroaches upon any right-of-way owned or maintained by the city, unless and until such use of the right-of-way shall have been approved. A Rights-of-Way Use Permit shall be obtained from the city manager or their designee.

(1) Permit Fees. Each application for permit shall be accompanied by a fee as provided for in Appendix F – Fees and Fines.

(2) Annual Fee for Rights-of-Way Use. Each wireless support structure not owned or maintained by the city located within or that encroaches upon any right-of-way owned or maintained city shall be subject to an annual fee as provided for in Appendix F – Fees and Fines.

(d) *Approval required.* Construction, erection or placement any wireless communication facility or wireless support structure within or encroaches upon any right-of-way owned or maintained by the city shall be in accordance with the provisions of Appendix B – Zoning, Article 5 Section 23.

SYNOPSIS

This proposed Ordinance adds provisions for Wireless Communications Facilities by adding a new Section 23 – Wireless Communication Facilities to the *Zoning Ordinance* and completing other amendments to the *Dover Code of Ordinances.* This proposed Ordinance provides definitions; establishes certain general and specific standards relating to the location, placement, construction and maintenance of Small WCF, Non-Tower Based WCF, and Tower-Based WCF; provides for the regulations of WCF within the public rights-of-ways and outside public rights-of-way on properties; provides for the enforcement of said regulations; and establishes an Effective Date.

EFFECTIVE DATE: This Ordinance shall become effective immediately upon adoption.

DRAFT WCF Version 2 Planning 9-9-2020

Establishment of Fees for Wireless Communication Facility Activities:
A fee structure associated with the various provisions for permits, applications, and annual fees for wireless communication facilities must be established.

- Certain fees already exist in the *Dover Code of Ordinances* for Pole Attachment Fees and Activities (associated with Chapter 110 – Utilities) and for Conditional Use Permit Applications (associated with Appendix B – Zoning).
- It is noted that certain application fees are capped by Federal regulations.
- Staff is continuing to evaluate the fee structure.
- Upon determination of Fee Structure then Appendix F – Fee and Fines as associated with various Chapters and Appendix B - Zoning must be amended.

Chapter 98. Streets, Sidewalks and Other Public Places	Fees	Suggested Fee or *Already Established Fee	*Notes on Federal Caps*
Article 1. In General Sec. 98-11 (c) Use of Rights of Way Permit			
(1) Permit Fees	ROW Permit	$25	
(2) Annual Fee for Rights-of-way Use	Amount per placement	$50	*Small WCF recurring fees are capped at $270 per site per year. This includes both recurring ROW use fees and fees for attachment to City Poles.*
Appendix B - Zoning	Fees and Fines	Suggested Fee or *Already Established Fee	*Notes on Federal Caps*
Article 5. Supplementary Regulations Sec. 23 Wireless Communications Facilities			
23.5 Application Procedures			
23.51 Location within Public Right-of-way			
(f) Fee	WCF Building Permit	TBD	*Per FCC September 2018 Declaratory Ruling: Collocated Small WCF - $500 for up to five Small WCF in same application, $100 for each Small WCF thereafter in same application; Small WCF (new pole) - $1,000*

DRAFT WCF Version 2 Planning 9-9-2020

23.53 Eligible Facilities Request			
(d) Fee	WCF Building Permit	Same as Building Permit Fees: $25.00 for first $1,000.00 of costs and $8.00 for each additional $1,000.00 of costs or multiples thereof up to $10,000,000.00 of costs…	
23.54 Substantial Change Activity			
(d) Fee	WCF Building Permit	Same as Building Permit Fees: $25.00 for first $1,000.00 of costs and $8.00 for each additional $1,000.00 of costs or multiples thereof up to $10,000,000.00 of costs…	
23.55 New Facilities			
(a) Conditional use authorization required.	Conditional Use Permit Application	* $425.00, plus $25.00 per acre of the area or multiple thereof involved in the application	
(d) Fee	WCF Building Permit	Same as Building Permit Fees: $25.00 for first $1,000.00 of costs and $8.00 for each additional $1,000.00 of costs or multiples thereof up to $10,000,000.00 of costs…	*Non-Tower WCF and Tower-Based WCF no fee cap for application*
23.56 New Small WCF			
(d) Fee	WCF Building Permit – Small WCF	TBD	*Per FCC September 2018 Declaratory Ruling: Collocated Small WCF - $500 for up to five Small WCF in same application, $100 for each Small WCF thereafter in same application; Small WCF (new pole) - $1,000*

DRAFT WCF Version 2 Planning 9-9-2020

PRELIMINARY DRAFT #2

CITY OF DOVER

SMALL WIRELESS COMMUNICATIONS FACILITY (SWCF) DESIGN MANUAL

This Manual is part of the City of Dover Wireless Communication Facilities Code (Appendix B – Zoning, Article 5 – Supplemental Regulations, Section 23) and shall be applied as part thereof. It addresses the applicable design standards and the process for application and review by the City of Dover for all Small Wireless Communications Facility applications.

SMALL WIRELESS COMMUNICATIONS FACILITY BUILDING PERMIT REQUIRED:

A Small Wireless Communications Facility Building Permit is required for all proposed Small Wireless Communication Facility activities whether involving an existing utility pole or similar facility or a new location for a Small Wireless Communications Facility as defined herein. An application for Small Wireless Communications Facility Building Permit shall be submitted on the proper form to the Department of Planning & Inspections prior to initiation of any construction or installation. The Department will conduct an administrative review for proposals located in all zoning districts.

SECTION I. DEFINITIONS

The following terms are defined as follows:

1. *Accessory Equipment* – any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

2. *Antenna* – An apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

3. *Collocation* – The mounting of one or more WCFs, including antennae, on a pre-existing structure, or modifying a structure for the purpose of mounting or installing a WCF on that structure.

4. *Decorative Pole* – A City-owned pole that is specially designed and placed for aesthetic purpose and on which no appurtenances or attachments, other than a small wireless facility, lighting, or municipal attachments have been placed or are permitted to be placed.

Preliminary Draft #2 SWCF Design Manual 9-9-2020

5. *Prior Approved Design* – A design for a small wireless communications facility that has been reviewed and deemed to be in accordance with this Design Manual and approved for construction by the City.

6. *Small Wireless Facility* -- A wireless communications facility that meets the following criteria:

   (1) The structure on which antenna facilities are mounted—

   a) is 50 feet or less in height, or
   b) is no more than 10 percent taller than other adjacent structures, or
   c) is not extended to a height of more than 50 feet or by more than 10 percent above its preexisting height as a result of the collocation of new antenna facilities; and

   (2) Each antenna associated with the deployment (excluding the associated equipment) is no more than three (3) cubic feet in volume; and

   (3) All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than 28 cubic feet in volume; and

   (4) The facilities do not require antenna structure registration under 47 CFR Part 17; and

   (5) The facilities are not located on Tribal lands, as defined under 36 CFR §800.16(x); and

   (6) The facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 CFR §1.1307(b).

7. *Stealth Technology*—camouflaging or screening methods applied to wireless communications facilities and accessory equipment which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in a manner appropriate to the site's context and surrounding environment. Such methods include, but are not limited to, architecturally screened roof-mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

8. *Underground Utility Area* – A portion of the City in which all utility installations are required to be installed underground on a non-discriminatory basis pursuant to Section 110-31 of the City Code.

Preliminary Draft #2 SWCF Design Manual 9-9-2020

SECTION II. GENERAL STANDARDS FOR SMALL WIRELESS COMMUNICATIONS FACILITIES

1. Applicants for Small Wireless Communications Facility locations shall first consider collocation on an existing City-owned utility pole, or a replacement with a new pole in the same location and matching to the maximum extent possible the existing style, color, materials, and configuration of the pole being replaced.

2. Small Wireless Communications Facilities shall only be located on distribution voltage electric utility poles meeting the approval of the City of Dover Electric Department. These installations will be a minimum of 6 feet above the primary conductors. Installation on transmission voltage poles is prohibited.

3. All Small Wireless Communications Facilities shall be installed and maintained in a workmanlike manner in compliance with the National Electric Safety Code and the National Electrical Code, as applicable.

4. All Small Wireless Communications Facilities shall comply, to the extent consistent with applicable state and federal law, with the Americans with Disabilities Act guidelines adopted by the City and all applicable requirements of the City Code relating to streets and sidewalks as established by Chapter 98 of the City Code.

5. Poles shall not obstruct vehicular, pedestrian, or cyclist traffic or sight lines in an unsafe manner.

6. All Small Wireless Communications Facilities shall comply with applicable federal and state standards regarding pedestrian access and movement.

7. All Small Wireless Communications Facilities shall be designed and constructed to minimize aesthetic impact on the surrounding neighborhood in accordance with this Small Wireless Cell Facility Design Manual to the extent technically feasible

8. No Small Wireless Communications Facility shall be permitted on an existing Decorative Pole unless the applicant provides documentation showing that such Decorative Pole is the only technically feasible location for placement and that no suitable alternative sites exist. A replacement decorative pole of similar style may be used if accepted by the City Manager or their designee.

9. No Small Wireless Communications Facility shall extend beyond the boundaries of the rights-of-way unless approved on a case-by-case basis by the City Manager or designated official.

Preliminary Draft #2 SWCF Design Manual 9-9-2020

10. All Small Wireless Communications Facilities shall be designed to withstand the effects of wind gusts and ice to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association (ANSI/TIA-222, as amended), or to the industry standard applicable to the structure.

11. All Small Wireless Communications Facility locations must comply with applicable provisions of the *Zoning Ordinance* as set forth in Section 23.52 of the Wireless Communications Facilities Code as related to Historic Districts, Airport Environs Overlay Zone or Environmentally Sensitive Areas.

12. Small Wireless Communications Facility shall comply with the maximum height permitted in the zoning district to the extent technically feasible.

13. Any existing City-owned pole requiring replacement that is currently utilizing a concrete base will have the concrete base removed and replaced with a breakaway steel screw in foundation. This foundation type is not required for third party pole installations.

SECTION III. ANTENNA AND ACCESSORY EQUIPMENT STANDARDS

1. **Antenna Standards**
    a. Any Antenna associated with a Small Wireless Communications Facility shall not exceed three (3) cubic feet in volume.
    b. All pole-top Antennas shall be flush-mounted as closely to the top of the utility pole as technically feasible.
    c. All Antennas shall be of a design, style, and color that reasonably matches the utility pole upon which they are attached.
    d. Any necessary pole-top extension shall be of the minimum height necessary to achieve separation from the existing pole attachments; minimum clearance of 6 feet above primary distribution wires.
    e. Any Antenna mounted on a lateral standoff bracket shall protrude no more than necessary to meet clearances.
    f. If mounted on an existing structure, no Antenna shall impair the function of said structure.
    g. Antenna placement shall not materially impair light, air, or views from adjacent windows to the extent technically feasible.
    h. No more than two (2) collocated Small Wireless Communications Facilities shall be permitted on a single utility pole.

2. **Accessory Equipment Standards**

Preliminary Draft #2 SWCF Design Manual 9-9-2020

a. Accessory Equipment shall not exceed twenty-eight (28) cubic feet in volume. Equipment utilized solely for the minimization or mitigation of the aesthetic impact of the Small Wireless Communications Facility shall not be included in the Accessory Equipment volume calculation.
b. Accessory Equipment shall be mounted flush to the side of a utility pole, or as near flush to the side of a utility pole as technically feasible.
c. Accessory Equipment shall be mounted to provide a minimum of eight (8) feet vertical clearance from ground level.
d. Meter socket installations shall be no lower than four (4) feet and no higher than six (6) feet above finished grade. If installed in a pole manufactured to house SWF equipment the pole will be positioned to allow a minimum of three (3) feet clearance to allow access to the meter.
e. Accessory Equipment shall be of a color that reasonably matches the utility pole upon which such Accessory Equipment is mounted.
f. To the extent feasible, Accessory Equipment shall be contained within a single equipment shroud or cabinet. Such equipment shroud or cabinet shall be of the smallest dimensions technically feasible.
g. All Small Wireless Communications Facilities shall post a sign in a readily visible location identifying the owner's permit number and the name and phone number of a party to contact in the event of an emergency. The only other signage permitted shall be that required by the FCC or any other federal or state agency. All signage associated with a Small Wireless Communications Facility shall be approved by the City Planning Department.
h. Accessory Equipment placement shall not materially impair light, air or views from adjacent windows. To the extent technically feasible, all Accessory Equipment shall be placed away from adjacent windows and the primary pattern of pedestrian and vehicular traffic.
i. No Accessory Equipment shall feature any lighting, including flashing indicator lights, unless required by state or federal law.

3. **Wiring Standards**
   a. Exposed wiring on decorative poles is prohibited on any Small Wireless Communications Facility, Accessory Equipment or Accessory Equipment enclosure.
   b. Transmission, fiber, power cables and any other wiring shall be contained within any utility pole for which such concealment is technically feasible. If wiring cannot be contained within the utility pole, all wiring shall be contained within conduit or U-guard that is flush-mounted to the utility pole.
   c. All wiring shall be installed without excessive slack or extra cable storage on the utility pole.

Preliminary Draft #2 SWCF Design Manual 9-9-2020

d. Any conduit or U-guard shall be of a color that reasonably matches the utility pole to which the Small Wireless Communications Facility is attached.
e. Loops of extra wiring shall not be attached to any utility pole.

SECTION IV. POLE STANDARDS

1. Replacement Utility Poles.

a. Any replacement wireless support structure shall comply with the following requirements to the extent that the requirements do not conflict with the standards and requirements of the owner of the wireless support structure being replaced:

i. The maximum height of any proposed replacement utility pole shall be: 1) no more than ten (10%) percent taller than the tallest existing utility pole in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed Small Wireless Communications Facility; or 2) fifty (50) feet above ground level, whichever is greater.
ii. Any replacement utility pole shall be of comparable materials and design to the existing utility pole. All attachment hardware will match, as much as possible, to the color of the pole being installed.
iii. Any replacement utility pole shall be placed within five (5) feet of the existing utility pole being replaced.
iv. Any replacement utility pole shall be designed to accommodate all uses that existed on the existing utility pole prior to replacement. As part of an application for a Small Wireless Communications Facility, the applicant shall provide documentation from a structural engineer licensed in the State of Delaware confirming that the replacement utility pole, Small Wireless Communications Facility, and prior existing uses shall be structurally sound.
v. Any replacement utility pole shall not deviate from the predominant pattern of existing adjacent structures.

b. Replacement of any City-owned utility pole shall comply with the following requirements:

i. Any existing City-owned utility pole requiring replacement that is currently utilizing a concrete base will have the concrete base removed and replaced with a steel screw in foundation.
ii. City owned poles requiring replacement that contain lighting attached with davit arms must allow for the installation of the same lighting configuration on the new pole.

Preliminary Draft #2 SWCF Design Manual 9-9-2020

iii. Replaced City-owned poles will be capable of supporting davit arms for lights and if the original arm cannot be installed on the new pole, a new arm will be provided by the applicant.

2. New SCWF Poles

a. The maximum height of any new SCWF pole shall be: 1) no more than ten (10%) percent taller than the tallest existing utility or SCWF pole in the public rights-of-way within a two hundred fifty (250) foot radius of the proposed Small Wireless Communications Facility; or 2) fifty (50) feet above ground level, whichever is greater.

b. Any new pole shall be installed in accordance with the predominant pattern of existing adjacent structures.

c. New poles shall be of the same or similar material and color of existing adjacent structures.

d. To the extent technically feasible, no new SCWF pole shall be installed:

i. Directly in front of any building entrance or exit so that it would interfere with ingress or egress;

ii. Directly in front of a window of any residential structure;

iii. Within ten (10) feet of the edge of any driveway;

iv. In the public rights-of-way directly opposite any driveway;

v. In a manner that unreasonably increases visual clutter or disorganization of utility infrastructure along the street; or

vi. In violation of the design standards contained herein.

3. Decorative Poles:

a. Decorative Poles shall be required for the replacement of any existing Decorative Pole;

b. Decorative poles shall be required in any portion of the City where all utility installations are required to be installed underground on a non-discriminatory basis pursuant to Section 110-31 of the City Code, unless not technically feasible.

c. For any replacement Decorative Pole, the new Decorative Pole shall match the existing Decorative Pole in shape, design, color, and material.

d. All replacement Decorative Poles shall comply with the requirements of Section III (1) of this Design Manual.

SECTION IV. REVIEW AND APPROVAL

Applicants are encouraged to participate in a pre-application meeting with City Planner or designee in order to discuss any location, aesthetic or safety concerns of the City with respect to the proposed SWCF. The City Planner shall consult with the City Manager, the Dover Electric Department, the City Public Works Department and any other applicable City departments and shall advise the applicant of any findings or recommendations.

Preliminary Draft #2 SWCF Design Manual 9-9-2020

The City Planner shall create a checklist to be used to determine the requirements for submittal of a "Complete Permit Application."

Minimum Information Required for Permit:

i. Name and address of applicant, including contact person
ii. Address of the proposed SWCF which may be street address, parcel number, or other definitive location as may be relevant to the location.
iii. Physical geographic coordinates (GIS format)
iv. Design and construction details
v. Complete application including any ROW or Attachment permit documents

The City Planner shall reasonably determine whether a proposed Small Wireless Communications Facility design complies with the requirements of this Design Manual.

The City Planner may impose such additional, reasonable conditions as determined by the City to minimize the impact of the Small Wireless Communications Facility on the neighborhood in which to be located.

Any requests for a variance from the requirements of this Design Manual shall be considered on a case-by-case basis by the City Planner and shall be approved upon a determination that such variance is in the best interests of the City or necessary to avoid the effective prohibition of wireless service pursuant to the Rules of the Federal Communications Commission.

Upon approval of a design for a Small Wireless Communications Facility requiring a variance from the requirements of this Design Manual, such design shall be incorporated by reference into this Design Manual as a Prior Approved Design.

A Small Wireless Communications Facility Building Permit will not be issued until a ROW Use Permit Agreement and/or City of Dover Pole agreement are approved and in place.

A record of Approved Designs shall be kept on file at the City Planning and Inspections Office.

SECTION V. APPROVAL TIMING

Approval timing shall be as set forth in Section 23.57 of the City of Dover Wireless Communications Facilities Code (Appendix B- Zoning, Article 5, Section 23).

Preliminary Draft #2 SWCF Design Manual 9-9-2020

Small Wireless Communications Facility Design Checklist

The information detailed in the following checklist shall be included with any application for a Small Wireless Communications Facility:

Item	Description	Included in Application?	
		Yes	No
Cover Letter	• The application shall include a cover letter detailing the location of the proposed site, all equipment being proposed, and a certification that the applicant has included all information required by the City Code.		
Site Plan	• Site plan shall show all proposed equipment associated with the Small Wireless Communications Facility. • The manufacturer and model, proposed location, and dimensions of each piece of equipment should be clearly shown. • Before and after diagrams of the proposed site showing the dimensional changes shall be included. • If the proposed utility pole supports existing attachments, the site plan shall show the location and dimensions of all such attachments. • If installation of a new utility pole is being proposed, the site plan shall include the color, dimensions, material and type of utility pole proposed. • The site plan shall show the location of any existing structures within one hundred (100) feet of the proposed location, including but not limited to residential structures, commercial structures, light poles, traffic signals, traffic signage, and existing utility poles.		
Photo Simulations	• Photo simulations shall depict the Small Wireless Communications Facility from at least two locations near the proposed site. • The photo simulations should reflect the proposed design and location of all Accessory Equipment associated with the Small Wireless Communications Facility.		

Preliminary Draft #2 SWCF Design Manual 9-9-2020

Paint	• Accessory Equipment shall be painted a color that reasonably matches the utility pole upon which such Accessory Equipment is mounted. • Application shall detail the proposed painting of any Accessory Equipment necessary to achieve aesthetic uniformity of the site.		
Wiring	• All proposed wires associated with the Small Wireless Communications Facility shall be clearly shown. • A depiction and description of the concealment methods to be utilized for the wiring shall be included. • No exposed wiring is permitted.		
Signage	• Signage shall be posted in a readily visible location and identify the owner's permit number and the name and phone number of a party to contact in the event of an emergency. • If required, FCC-mandated signage is permitted. Applicant shall identify such signage in its application.		
Right-of-way Placement	• Application for permit/permit # • Line of sight is not impaired		

Preliminary Draft #2 SWCF Design Manual 9-9-2020

COMMITTEE ACTION FORM

PROCEEDING: Council Committee of the Whole – Utility Committee
DEPARTMENT OF ORIGIN: City Manager's Office **DATE SUBMITTED**: September 9, 2020
PREPARED BY: Matt Harline, Assistant City Manager
SUBJECT: Approving the Form and Content of a Model Master License Agreement for Small Wireless Communication Facilities Attached to City of Dover Assets
REFERENCE: N/A
RELATED PROJECT: N/A
REVIEWED BY: Donna Mitchell, City Manager
EXHIBITS: A – Draft Master License Agreement
EXPENDITURE REQUIRED: None **AMOUNT BUDGETED**: None **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Adoption of the Master License Agreement (MLA), Ordinance and Design Manual Fall of 2020. Executing MLAs with Verizon and the AT&T cellular group in Fall of 2020
RECOMMENDED ACTION: Approve the model Master License Agreement and authorize the City Manager to sign agreements with individual carriers.

BACKGROUND AND ANALYSIS

INTRODUCTION: The Committee has before it the final draft of a template to use in negotiations with any additional wireless communication providers. This template mirrors many of the negotiated terms with the first two providers to approach us and can expedite entry into the market for other providers. By adopting this model agreement, the City Manager would be able to negotiate terms with minor variations and move swiftly to approve new carriers. This would reduce the process time for approvals and make Dover an attractive place to bring this technology.

BACKGROUND: The City is working on setting the regulatory framework for Wireless Communication Facilities (WCF), including, Small Wireless Communication Facilities (SWCF). One part of that is an ordinance that will define the rules for old-fashioned radio and telephone towers; WCF and SWCF, including antennae, attached to buildings, water towers; and other facilities and finally SWCF attached to utility poles and new poles placed for wireless transmission only. These are covered in separate items on the agendas for this meeting.

The so-called fourth and fifth generation technologies (4G and 5G) require more numerous transmitters and antennae to transmit the volume of calls and texts, but especially for transmitting data. The preferred option for the City and the private sector companies is to attach these SWCF, which are small relatively inconspicuous devices, to existing streetlights and other infrastructure in the right-of-way. Most of that infrastructure belongs to the City of Dover. Attachment to City of Dover equipment will require us to enter into agreements with various companies to spell out the terms and conditions prior to having any equipment attached to a City pole. Currently the City is in negotiation with AT&T (New Cingular Wireless, PCS LLC) and Verizon for Master License Agreements (MLAs).

It is important that the Committee understands as we move forward that the technology provides the ability to improve wireless data transmission which can be advantageous to the City, residents and local businesses. It also requires SCWF every 400 to 700 feet for complete network availability. The City needs to move forward with regulations that meet Federal guidelines, but we also need to incorporate community standards to the extent possible.

Mike Roberts, an attorney with the Cohen Group, drafted a model documents including a draft ordinance, a draft Design Manual and a draft MLA. This agenda item concerns the MLAs. The City and the industry both desire to use existing poles where ever possible. The City wishes to reduce the number of poles in the right of way and to minimize the visual clutter that the new devices could cause, while at the same time the City wants to welcome the technology that is needed to meet the growing demands for access to data for the individual as well as the entrepreneur. The industry desires to save money, where possible, by sharing infrastructure that the City already has in the right-of-way.

As we try to complete an ordinance for review and eventual adoption, no issue is stickier than the placement of new poles for Small Wireless Communication Facilities (SCWF). Federal Law prohibits "effective prohibition" of deploying the necessary SCWF. Effective prohibition can be described as: A regulation that materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment. Effective prohibition occurs when a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of service. It means that they can assert the right to some facility somewhere near, not only when filling a coverage gap but also when densifying a wireless network, introducing new services or otherwise improving service capabilities. So, by materially inhibiting the introduction of new services or the improvement of existing services we might be in violation of Federal Law.

This does NOT prohibit us from encouraging or in some case requiring providers utilize existing poles. Hence the need for an agreement to be in place to allow attachment to City-owned streetlights and secondary electric service poles.

The agreements with Verizon and the AT&T group are very similar to this template. By approving the form and content of this template the Committee not only knows what to expect in the negotiated agreements, by approving this template it would facilitate entry into the market by other competitors. All agreements will be reviewed by our City Solicitor in addition to the review by the Cohen Group.

WIRELESS POLE ATTACHMENT LICENSE AGREEMENT

Between

THE CITY OF DOVER

and

[PROVIDER]

TABLE OF CONTENTS

Article 1 Definitions 4
Article 2 Scope of Agreement 5
Article 3 Term of Agreement 6
Article 4 Specifications 6
Article 5 Attachment Fees 7
Article 6 Process for Permitting New Attachments 7
Article 7 Eastments and Rights-of-Way for Licensee's Attachments 7
Article 8 Maintenance and Transfers 8
Article 9 Unauthorized Attachments 9
Article 10 Attachments Not Removed at End of Term 9
Article 11 Recovery of Space by Owner 10
Article 12 Abandonment of Poles 10
Article 13 Rights of Other Parties 10
Article 14 Assignment of Rights 11
Article 15 Waiver of Terms or Conditions 11
Article 16 Insurance 12
Article 17 Service of Notices 12
Article 18 Supplemental Agreements 13
Article 19 Default 13
Article 20 Indemnification 14
Article 21 Force Majeure 15
Article 22 Miscellaneous Provisions 15

APPENDICES

Exhibit A: Schedule of Fees

Exhibit B: Supplemental Materials

- Exhibit B-1: Application for Permit
- Exhibit B-2: Permit for Attachment
- Exhibit B-3: Notice of Discontinuance of Attachment to Poles

WIRELESS POLE ATTACHMENT LICENSE AGREEMENT

THIS WIRELESS POLE ATTACHMENT LICENSE AGREEMENT (the "Agreement") is effective this ___ day of _____, 2020 by and between the City of Dover, Delaware and NAME OF LICENSEE, organized under the laws of the State of Delaware and authorized to engage in business in the State of Delaware.

WHEREAS, Licensee desires to locate certain of its wireless communications facilities for the purpose of providing wireless service on Poles owned and managed by the City;

WHEREAS, the City desires to protect and manage the use of the aforesaid Poles, ensure public safety within public rights-of-way, and obtain financial compensation for Licensee's use of the City's Poles; and

WHEREAS, the City wishes to minimize the adverse visual effects and the number of such Facilities through proper design, siting, screening, material, color and finish and by encouraging providers of wireless communications services to collocate their Facilities on existing structures; and

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions herein contained the parties hereto do hereby mutually covenant and agree as follows:

ARTICLE 1
DEFINITIONS

1. *Accessory Equipment*—any equipment, excluding the antenna, serving or being used in conjunction with a wireless communications facility or wireless support structure. The term "Accessory Equipment" includes but is not limited to utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

2. *Antenna* – An apparatus designed for the purpose of emitting radiofrequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission authorization, for the provision of wireless service and any commingled information services.

3. *Attachment* – The attachment of Licensee's facilities to poles owned or controlled by the City of Dover.

4. *City* – The City of Dover, Delaware.

5. *Cost* or *City's Cost* – Reasonable costs reasonably incurred as a direct result of Licensee's application to attach to and use of City Poles. The City intends that the costs of outside contractors and consultants shall be at fair market value.

6. *Effective Date* – The date that is the later of the dates on which each of the parties have executed this Agreement.

7. *Emergency*—a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public, or (2) has caused or is likely to cause City's facilities in the rights-of-way to be unusable and result in loss of the services provided.

8. *Facility* or *Facilities* – An installation mounted onto or supported by a Pole owned by the City that sends and/or receives licensed or unlicensed radio frequency signals, and consists of several wireless components, including but not limited to accessory equipment, panels, omnidirectional or directional Antenna(s); structures to support transmitters, receivers, antennas; wireless network components; riser cable; conduits; equipment cabinets; accessory equipment; and other ancillary equipment. The term "Facility" includes strand mounted installation suspended between two Poles.

9. *Licensee* – NAME OF LICENSEE.

10. *Make Ready Construction Work* -- Work necessary to enable an authority pole or utility pole to support attachment of Licensee's facilities, which may include modification or replacement of Poles or modification of City equipment.

11. *NESC* – The most recent edition of the National Electric Safety Code.

12. *Permit* – The written authorization granted by the City allowing Licensee to make attachments to City-owned poles and/or for the use of the rights-of-way in the City for the purpose of constructing, operating and/or maintaining facilities therein.

13. *Person* – Firms, associations, partnerships (including limited partnerships), limited liability companies, joint ventures, trusts, corporations and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.

14. *Pole* – means a street light pole or utility pole owned and operated by the City of Dover.

15. *Pre-Existing Attachment* – Any attachment existing prior to the effective date of this agreement.

16. *Rights-of-Way* – The surface and space in, on, above and below any real property in which the City of Dover has an interest in law or in equity, including, but not limited to, any public street, boulevard, avenue, road, highway, easement, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, bridge, park, green space or any other place.

17. *Unauthorized Attachment* -- An Attachment placed after the Effective Date without a Permit having been issued or that is otherwise materially noncompliant with the requirements of this Agreement.

ARTICLE 2
SCOPE OF AGREEMENT

2.1. Subject to the provisions of this Agreement, the City agrees to issue to Licensee, for the Attachment of Licensee's Facilities to the City's Poles for the purpose of providing any and all lawful services, a revocable, non-exclusive license hereinafter referred to as "License" authorizing the attachment of Licensee's Facilities to the City's Poles. This Agreement governs the fees, charges, terms and conditions under which the City issues such Permit(s) to Licensee. This Agreement is not in and of itself a license, and before making any Attachment to any Pole, Licensee must apply for and obtain all necessary Right-of-Way authorizations and Permit(s) for each Attachment it desires to make to any Pole.

2.2. This Agreement supersedes all previous wireless attachment agreements between the City and Licensee for the attachment of Licensee's facilities to the Poles of the City. This Agreement shall govern all existing Licenses, Permits, and other forms of permission for Attachments of Licensee's facilities to the City's Poles as well as all Permits issued subsequent to execution of this Agreement.

2.3. No use, however extended, of the City's Poles or payment of any fees or charges required under this Agreement shall create or vest in Licensee any ownership or property rights in such Poles except as expressly provided by this Agreement.

2.4. Nothing contained in this Agreement shall be construed to require the City to construct, retain, extend, place, or maintain any Pole or other facilities not needed for the City's own service requirements, except City shall reasonably accommodate requests by Licensee to replace or modify a Pole when necessary to support attachment of Licensee's facilities.

2.5. Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against the City entering into agreements with other parties regarding the Poles covered by this Agreement as long as such agreements do not conflict with rights granted to Licensee under this Agreement or any license issued hereunder.

2.6. Nothing contained in this Agreement shall be construed to require the City to permit Attachments to the City's Poles where there is insufficient capacity or where access is not possible for reasons of safety, reliability and generally applicable engineering requirements. At the time of Licensee's application for attachment, the City may reserve space on its Poles for its core utility service pursuant to a plan that reasonably and specifically projects a need for the space in the provision of the City's core business needs. The City shall allow Licensee to attach to such reserved space until the City has a need for that space, at which time, Licensee shall vacate the reserved space within sixty (60) days' of receiving written notice from the City and the City shall provide Licensee an opportunity to maintain its Attachment, at Licensee's expense.

ARTICLE 3
TERM OF AGREEMENT

3.1. This Agreement shall continue in force and effect for a period of ten (10) years commencing on the Effective Date. Unless terminated in accordance with the terms contained herein, the Agreement will automatically renew for three five (5) year renewal periods. In addition to termination in accordance with Article 20 of this Agreement, the Agreement is subject to termination by either Party upon sixty (60) calendar days' written notice prior to the end of any term.

ARTICLE 4
SPECIFICATIONS

4.1. Licensee's Attachments on the City's Poles covered by this Agreement shall be placed and maintained at all times in accordance with applicable provisions of the City of Dover Code, the requirements, specifications, rules and regulations of any governing authority having jurisdiction, the National Electrical Safety Code, latest edition and subsequent revisions thereof, and this Agreement.

4.2. Each Attachment shall be identified at all times by an identifying marker stating the name of Licensee and the contact information for Licensee in case of emergency. The marker shall, at a minimum, (a) be reasonably durable under the typical weather conditions in the area and (b) have coloring unique to Licensee. Within ten (10) days of the Effective Date, if the City elects to require tagging by Licensee, the City shall provide Licensee information concerning the type and color of tag to be used by Licensee in satisfying the requirements of this Section 4.2.

4.3. Licensee acknowledges that this Agreement is not an exclusive contract for Pole attachment rights. Licensee's use of the City's Poles shall not interfere with the rights or operations of other existing users.

Unless otherwise authorized by law, Licensee shall not move, remove, adjust or change the attachments of others without the specific written consent of the owner of said attachments and of the City.

ARTICLE 5
ATTACHMENT

5.1. Licensee shall pay an annual fee in the amount detailed in Appendix F of the City of Dover Code and Exhibit A to this Agreement for each Pole to which Licensee has one or more Attachments (the "Attachment Fee").

5.2. On or about the first day of December, the City shall invoice Licensee, in advance, the Attachment Fees and other charges due the City. Licensee shall pay any invoice within sixty (60) days Licensee shall, at its own expense, make Attachments in such manner as not to interfere with the service of the City or others who are attached to the City's Poles nor shall Licensee make any changes to the attachments of others unless authorized by Engineering Plans. When Construction Work is complete, Licensee shall notify the City.

ARTICLE 6
PROCESS FOR PERMITTING NEW ATTACHMENTS

6.1. To obtain a Permit, Licensee must submit Exhibit B-1 Application for Permit (the "Application") following the procedures in the Ordinance. Licensee shall at the same time pay the non-refundable Application Fee stated in Exhibit A. Licensee's Application shall be accompanied by Licensee's construction plans and drawings, which will, at a minimum, contain the information specified in applicable provisions of the Code of the City of Dover. Application fees will not be refunded if Licensee chooses not to proceed, however, such fees paid will be credited toward the Make Ready Engineering Fee in those instances where engineering work continues and/or Licensee proceeds with attaching its facilities.

6.2. Licensee must make its Attachments to the City's Poles within one hundred eighty (180) days of receipt of a Permit. Such timeframe may be extended by the City provided Licensee makes a written request for such extension and is diligently pursuing its work. If Licensee's work for any Attachment is not complete within the one hundred eighty (180) day period or its extension, then the City may terminate its approval for Licensee's Attachment and Licensee shall have no further right to place that Attachment except by following the procedures specified above for new Attachments.

6.3. No later than forty-five (45) days after Licensee adds the last Attachment for the Permit Application, Licensee shall send to the City a certification signed by an authorized representative of the Licensee that is a licensed engineer in the State of Delaware that the Attachments are of sound engineering design and fully comply with the Ordinance, this Agreement and the NESC and were constructed substantially as provided in the drawings approved by the City.

ARTICLE 7
EASEMENTS AND RIGHTS-OF-WAY FOR LICENSEE'S ATTACHMENTS

7.1 The City does not warrant or assure to Licensee any City Right-of-Way privileges, uses or easements. Licensee shall be responsible, where required by law, for obtaining its own governmental permits, Right-of-Way access authorizations and lawful easements from the owner(s), any lien holders, and other appropriate parties. Under no circumstances shall the City be liable to Licensee or any other party in the event Licensee is unable to obtain the necessary Right-of-Way authorizations for placing and/or maintaining its Attachments on the City's Poles. Accordingly, the City's acceptance of Licensee's

application and issuance of a Permit shall never be construed as granting any such City Right-of-Way privileges, uses or easements.

ARTICLE 8
MAINTENANCE AND TRANSFERS

8.1 The City shall, at its own expense, maintain its Poles in a serviceable condition in accordance with industry standards and practices and shall replace, reinforce, or repair Poles as necessary to keep all Poles compliant with such standards, codes and practices, as they become actually known by the City to be unserviceable.

8.2 If the City requests, Licensee shall become a member of the National Joint Use Notification System (the "NJUNS") and maintain the capability of receiving messages from NJUNS and shall utilize such capability.

8.3 Licensee shall ensure that all employees, contractors or employees of contractors who work on the City's Poles are properly trained and working on the City's Poles safely. Licensee shall specifically warn, by reasonable means, each and every employee of the inherent dangers of making contact with the City's electrical conductors and/or electrical equipment before employees are permitted to perform work on or near the City's facilities. Licensee shall require, as a part of its process for qualifying contractors, that said contractors notify their employees of the inherent dangers of making contact with electrical facilities.

8.4 The City disclaims any warranty or representation regarding the condition and safety of the City's Poles. Licensee expressly assumes responsibility for determining the condition of all Poles to be climbed or otherwise worked on by its employees, agents, contractors, or employees of contractors whether for the placement of Attachments, maintaining or rearranging Attachments, or for other reasons. Except for performing transfer work from unserviceable Poles to replacement Poles, Licensee shall not permit its employees or contractors to work on Poles that are unserviceable until the City has corrected the unserviceable condition or has otherwise determined that the Pole is serviceable. Licensee will notify the City if any of Licensee's employees, agents, contractors, or employees of contractors become aware of unserviceable Poles or other condition, whether hazardous or otherwise, that requires the attention of the City for evaluation and possible correction.

8.5 Permit(s) shall remain valid for any Attachment transfers to new Poles when replacement or relocation is necessary.

8.6 The City shall provide Licensee with sixty (60) days' advance written notice, or as much notice as practicable in cases of emergency, of the need to transfer Licensee's attachments due to Pole replacement or relocation. If Licensee fails to transfer its attachments within this period, the City may transfer Licensee's Attachment(s) at the time of the Pole replacement or relocation and Licensee shall pay the City's Cost upon invoice. In the event the City does such work, except for gross negligence or willful misconduct, the City shall not be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss or damage to Licensee or any other party claiming actual damages.

8.7 Where Licensee elects to transfer Licensee's Attachment(s), Licensee shall advise the City when the transfer is complete in the manner specified in the Ordinance. In the event of extraordinary circumstances and upon written request by Licensee, the City may elect to grant an extension of the sixty (60) day period to Licensee. The City will not unreasonably withhold consent of a request for extension of time.

8.8 If the transfer is not completed by the end of the sixty (60) day period or the extended time period granted by the City, the Unauthorized Attachment Discovery Fee shall apply and the Unauthorized Attachment Daily Fee shall also apply from the date on which the sixty (60) day period or the extended time period expired and shall continue until the City receives notification that Licensee has transferred its Attachment. These fees are established in Exhibit A to this Agreement. In addition, if Licensee does not transfer its Attachments within the sixty (60) day period or the extended time period and the delay forces the City to make a special return trip to the job site to remove the old Pole, then the Cost incurred by the City to return to the job site and remove the old Pole will be paid by the Licensee.

8.9 During the repair and restoration of utility power as a result of a storm event or from other damages to the City's facilities, the City may re-attach downed cables and/or conductors of the Licensee in a temporary fashion to the City's Poles. The City will notify the Licensee through the NJUN's ticket system, email, or letter of such instances. Licensee is required to take immediate action to permanently restore such cables and/or conductors within 30 days of the City's temporary placement. The City may invoice Licensee a per-Pole charge for each cable or conductor re-attached to each Pole by the City as shown in Exhibit A.

ARTICLE 9
UNAUTHORIZED ATTACHMENTS

9.1 An Unauthorized Attachment is an Attachment placed after the Effective Date without a Permit having been issued or that is not part of the work performed pursuant to Article 5 or Article 6 or Article 7. When discovered, the City will notify Licensee of any Unauthorized Attachment.

9.2 Licensee agrees to pay the City an Unauthorized Attachment Discovery Fee, per Unauthorized Attachment, in the amount stated in Exhibit A. Licensee shall, within ten (10) days after being notified, remove such Unauthorized Attachment or will submit Application for a Permit following the provisions of Article 5.

9.3 If Licensee fails to remove the Unauthorized Attachment or to submit Application within the ten (10) day period, then Licensee shall also pay to the City an Unauthorized Attachment Daily Fee as specified in Exhibit A, which shall continue each day until a Permit is issued or the Unauthorized Attachment is removed and the City has been notified in writing.

9.4 At any time after the ten (10) day period, the City may remove the Unauthorized Attachment without liability and Licensee shall pay the City's Cost of such removal and the Unauthorized Attachment Daily Fee shall terminate as of the date of the removal.

ARTICLE 10
ATTACHMENTS NOT REMOVED AT END OF TERM

11.1 Licensee shall not make additional Attachments to the City's Poles after the Agreement has expired or has been terminated in accordance with the terms and conditions contained herein. Licensee shall remove its existing Attachments from the Poles of the City within ninety (90) days of the expiration of this Agreement, unless Licensee and the City agree in writing to extend such timeframe for removal. Attachments made after the expiration or termination of this Agreement will be considered Unauthorized Attachments.

ARTICLE 11
RECOVERY OF SPACE BY OWNER

12.1 The City may, at any time, require the space occupied by Licensee's Attachments on the City's Poles for core business purposes relating to its provision of electric service, including service to street lights. In the event that the City requires space occupied by Licensee's Attachments, the City shall provide Licensee with ninety (90) days' advance written notice that rearrangement of Licensee's Attachments is required. Licensee shall rearrange its Attachments to other available space on such Poles at Licensee's expense or remove such Attachments within this time period. In the event Licensee is unable to rearrange its attachments and removal becomes necessary, the City shall work in good faith with Licensee to ensure continuity of Licensee's service and to identify and facilitate permitting of an alternate location. If the work is not completed within the specified time period, the City may declare the Attachment as an Unauthorized Attachment, invoking the provisions of Article 9 or rearrange or remove the Attachment at Licensee's expense. Costs of replacing existing Poles or placing new Poles to accommodate the City's business needs shall be borne by the City.

ARTICLE 12
ABANDONMENT OF POLES

13.1 The City may abandon a Pole upon sixty (60) days' notice to Licensee. Licensee must remove or transfer all Attachments from any abandoned Pole within the same sixty (60) days unless granted additional time by the City. The City will not unreasonably withhold consent of such request for additional time. If the City has no Attachment(s) on said Pole and Licensee has not removed or transferred its Attachments therefrom, the City may elect to (1) revoke Licensee's Permit for that Pole and declare the Attachment to be an Unauthorized Attachment, (2) remove Licensee's Attachment at Licensee's expense, with no liability falling on the City except in the case of gross negligence or willful misconduct, or (3) transfer ownership of the Pole to Licensee, at which point Licensee shall assume responsibility for all liability relating to such Pole. In the event the City abandon's a pole and requires removal of Licensee's attachment, the City shall work in good faith with Licensee to ensure continuity of Licensee's service and to identify and facilitate permitting of an alternate location.

13.2 Licensee may, at any time, discontinue use of a Pole by removing therefrom any and all Attachments it may have thereon. Billing of all recurring fees shall cease when the City has been notified of such removal in writing in accordance with the form provided as Exhibit B-5 of the Ordinance.

13.3 Following such removal, all Permits issued for the removed Attachment shall be considered voided and no Attachment shall again be made to such Pole until Licensee submits a Permit Application and receives a new Permit as provided in Article 5 of this Agreement and the Ordinance.

ARTICLE 13
RIGHTS OF OTHER PARTIES

14.1 Nothing herein shall be construed to limit the right of the City, by contract or otherwise, to confer upon others, not parties to this Agreement, rights or privileges to use the Poles covered by this Agreement. Rights granted to third parties shall not infringe upon the rights of the Licensee in this Agreement or any license issued hereunder.

14.2 If Licensee's new Attachment requires rearranging any other user's Attachment on the City's Pole(s), Licensee shall give notice thereof to such user prior to making its own Attachment and shall

cooperate with the other user in the rearrangement of facilities. Licensee hereby acknowledges that it shall bear the expense of rearrangement of Attachment(s) necessary to accommodate Licensee's use, provided such Costs are reasonable. Licensee does not have the right to rearrange the facilities of other users except with written permission from such user or unless otherwise permitted by law. Any Attachment privileges granted to Licensee hereunder shall be subject to any rights or privileges heretofore granted by the City to any user previously attaching.

14.3 If other users require the rearrangement of Licensee's Attachments in order to attach their facilities under the authority of Make Ready Construction plans approved by the City for their work, Licensee agrees to reasonably cooperate with such user in scheduling and performing the work and the other user shall bear the expense of such rearrangement, provided that any cost charged to the other user shall be reasonable.

ARTICLE 14
ASSIGNMENT OF RIGHTS

15.1 Licensee shall not permit any other user to use its Attachment(s) and may not sublicense any of its rights under this Agreement to any other user without providing notice of such sublicense to the City pursuant to Article 18 of this Agreement and obtaining the prior written approval of the City.

15.2 Licensee shall not assign or otherwise dispose of this Agreement, or of any of its rights or interests hereunder without the prior written approval of the City. Provided, however, Licensee may assign or transfer this Agreement and the rights and obligations hereunder to any entity controlling, controlled by, or under common control with Licensee without the consent of the City, but shall provide written Notice to the City within sixty (60) days detailing the assignment including the relationship. No such permitted assignment shall relieve Licensee, the permitted assignee, or any other party liable to the City from any obligations, duties, responsibilities, or liabilities to the City under this Agreement and the use is in strict compliance with Section 1.1. This Agreement shall be binding upon the successors and/or assigns of both parties.

15.3 Nothing contained herein is intended to interfere with Licensee's leasing fibers or capacity in its facilities, if such use is in strict compliance with the provisions of Section 1.1. The renting or leasing of fibers or capacity in its facilities specifically does not give Licensee's customer the right to any kind of access to the City's Poles and Licensee's customer is specifically prohibited from climbing or otherwise working on the facilities that are attached to the City's Poles unless Licensee's customer is working as a contractor for Licensee under the terms of a written agreement.

ARTICLE 15
WAIVER OF TERMS OR CONDITIONS

16.1 The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement including any applicable requirements of the Code of the City of Dover shall not constitute a waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE 16
INSURANCE

17.1 Licensee shall obtain and maintain throughout the period during which this Agreement shall remain in effect the following minimum insurance:

A. Workers' compensation insurance covering all employees of Licensee. Contractors, employees of contractors, subcontractors and employees of subcontractors who shall perform any of the obligations of Licensee hereunder, shall be required by Licensee to take out and maintain such insurance, whether or not such insurance is required by the laws of the state governing the employment of any such employee. If any employee is not subject to the workers' compensation laws of such state, such insurance shall extend to such employee voluntary coverage to the same extent as though such employee were subject to such laws.

B. Public liability and property damage liability insurance covering all operations under this Agreement limits for bodily injury or death not less than $1,000,000 for one person and $500,000 for each accident for property damage, not less than $2,000,000 for each accident and $2,000,000 aggregate for accidents during the policy period.

C. Automobile liability insurance on all self-propelled vehicles used in connection with this Agreement, whether owned, non-owned or hired; public liability limits of not less than $1,000,000 for one person and $2,000,000 for each accident; property damage limit of $1,000,000 for each accident.

17.2 The policies of insurance shall be in such form and issued by such insurer as shall meet the reasonable satisfaction of the City.

17.3 Licensee shall furnish to the City, at least annually or at the request of owner, a certificate evidencing compliance with the foregoing requirements. This certificate will list the City as an additional insured and will provide that in the event of cancellation of any of the said policies of insurance, the insuring company shall give all parties named as insureds thirty (30) days prior notice of such cancellation.

17.4 To the extent allowed by applicable law, Licensee shall be permitted to self-insure and will provide the City with proof of self-insurance.

ARTICLE 17
SERVICE OF NOTICES

18.1 It is expressly agreed and understood between the City and Licensee that any notice required to be given to either the City or Licensee pursuant to this Agreement shall be in writing and sent by certified mail and shall be deemed received upon actual delivery or refusal of delivery as evidenced by the records of the US Postal Service or delivery service.

18.2 Notices shall be sent addressed as follows:

If to Licensee: _____
_____
_____
_____

With copy to: _____
_____
_____
_____

If to the City: City of Dover
860 Buttner Place,
Dover, DE 19904

or to such other address as either party may designate by Notice to the other party from time to time in accordance with the terms of this Article.

ARTICLE 18
SUPPLEMENTAL AGREEMENTS

19.1 Neither the City nor Licensee is under any obligation, express or implied, to amend, supplement or otherwise change or modify any of the provisions of this Agreement. However, if the City agrees to amend, supplement or otherwise change or modify any of the provisions of this Agreement, then any such amendment, supplement, change or modification, to be enforceable, must be evidenced by written documentation duly executed by both parties. Without any such duly executed, written documentation of any amendment, supplement, change or modification, any oral discussions relating thereto shall not be binding upon the City or Licensee.

19.2 Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement.

ARTICLE 19
DEFAULT

20.1 The following shall be an event of Default:

A. If Licensee defaults in the payment of any fees or other sums due and payable to the City under this Agreement and such default continues for a period of thirty (30) days after Notice of such default has been given by the City to Licensee or,

B. With regard to Licensee in a matter that does not involve safety, and with regard to the City in any matter, if either party shall violate or default in the performance of any obligations contained herein (other than the payment of fees and other sums) for a period of sixty (60) days after Notice of such violation or default has been given by the non-defaulting party to such defaulting party or, in the case of a default not curable within thirty (60) days, if such defaulting party shall fail to commence to cure the same within thirty (30) days and proceed diligently until corrected, or,

C. In a matter that does involve safety, (i) if Licensee shall violate or default in the performance of any obligations contained herein and fails to commence to cure the same

immediately upon Notice and thereafter proceed to pursue diligently until corrected or (ii) if the correction takes longer than thirty (30) days.

20.2 In the event of Default, the City may at any time thereafter for so long as the default condition exists upon Notice of Default do any one or all of the following: (1) Declare this Agreement to be terminated in its entirety; (2) Terminate the Permits covering the Pole or Poles in respect to which such default or non-compliance shall have occurred; (3) Refuse to issue any more Permits for City poles; or, (4) Stop all Make Ready Construction Work and retain any monies that have been paid, or any combination thereof.

20.3 Whenever the City finds that Licensee is allegedly in Default of this Agreement, a written notice shall be given to Licensee. The written notice shall describe in reasonable detail the alleged Default so as to afford the Licensee an opportunity to remedy the violation. Licensee shall have sixty (60) days subsequent to receipt of the notice in which to correct the Default before the City may exercise any of the above-referenced remedies.

20.4 If Licensee defaults in the performance of any work, which it is obligated to do under this Agreement, the City may elect to do such work after providing thirty (30) days prior written notice to Licensee, and Licensee shall reimburse the City of the City's reasonable Cost. If the City elects to do such work, except for gross negligence or willful misconduct, the City shall not be liable for any loss or damage to Licensee's facilities, which may result therefrom or for any liability, loss or damage to Licensee or any other party claiming actual damages.

20.5 The remedies set forth in this Article are cumulative and in addition to any and all other remedies the City may have at law or in equity.

ARTICLE 20
INDEMNIFICATION

21.1 Licensee shall indemnify, defend and hold harmless the City, its elected and appointed officials, agents and employees against any and all claims for liability, injury, loss, cost, damage, fine or expense arising in whole or in part from, incident to, caused by, or resulting from the installation, presence, operation, use, maintenance or removal of Licensee's Attachments on Poles (each a "Claim"). The obligation to indemnify, defend and hold the City harmless shall include, but not be limited to, the obligation to pay judgments, liabilities, damages, penalties, attorneys' fees, expert fees, courts costs and all other costs and expenses of litigation.

21.2 No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by the City of the provisions of the Delaware Tort Claims Act or any other law limiting municipal liability.

21.3 The City shall indemnify, defend and hold harmless Licensee, its directors and employees against any and all claims for liability, injury, loss, cost, damage, fine or expense arising in whole or in part from, incident to, caused by, or resulting from the gross negligence or willful misconduct of the City or the City's agents or contractors relating to said Poles. The obligation to indemnify, defend and hold the Licensee harmless shall include, but not be limited to, the obligation to pay judgments, liabilities, damages, penalties, attorneys' fees, expert fees, courts costs and all other costs and expenses of litigation.

21.4 Neither party will be liable under this Agreement for consequential, special, punitive or indirect damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise.

ARTICLE 21
FORCE MAJEURE

22.1 Neither Party shall be liable for any delay or failure in performance of any part of this Agreement resulting from Force Majeure, defined herein as acts of God, acts of civil or military authority, epidemics, war, acts of public enemies, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, or unusually severe weather. In the event of any such excused delay in the performance of a party's obligation(s) under this Agreement, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delaying party shall perform its obligations at a performance level no less than that which it uses for its own operations.

ARTICLE 22
MISCELLANEOUS PROVISIONS

24.1 Neither party, by mere lapse of time, shall be deemed to have waived any breach by the other party of any terms or provisions of this Agreement. The waiver by either party of any such breach shall not be construed as a waiver of subsequent breaches or as a continuing waiver of such breach.

24.2 Should any court of law or administrative or governmental entity with jurisdiction declare any provisions of this Agreement to be illegal, void or unenforceable, such provisions shall be deemed to be severed from the remaining provisions of this Agreement and the remaining provisions of the Agreement shall remain in full force and effect.

24.3 Nothing contained in this document, or in any amendment or supplement thereto or inferable herefrom, shall be deemed or constructed to (1) make Licensee the agent, servant, employee, joint venturer, associate, or partner of the City, or (2) create or establish any partnership, joint venture, agency relationship or other affiliation or association between the City and Licensee. The parties hereto are and shall remain independent contractors. Neither party shall have the right to obligate or bind the other party in any manner to any third party. It is understood that this document enables only a license in favor of Licensee strictly in accordance with its written provisions.

24.4 Each party represents that it has the full power and authority to enter into this Agreement and to convey the rights herein conveyed.

24.5 This Agreement is deemed executed in and shall be construed under the laws of the State of Delaware.

SIGNATURE PAGE TO FOLLOW

WITNESS our hands and official seals, this ___ day of _____, 2020.

THE CITY OF DOVER

By:

_____

Print Name:

_____

Print Title:

_____

Date:

_____

[LICENSEE]

By:

_____

Print Name:

_____

Print Title:

_____

Date:

_____

EXHIBIT A
SCHEDULE OF FEES

Application Fee: for new Attachments	$500.00 per application (up to five [5] Attachments), and $100 per additional attachment in the same application	
Make Ready Engineering Fee:	TBD	To be provided for Each Permit request based on level of effort.
Electric Fee:	$	Per Attachment.
Attachment Fee per Pole Per Year:	$50.00	
Other Fees:		
Unauthorized Attachment Discovery Fee	$1,000.00	
Unauthorized Attachment Daily Fee	$250.00	

EXHIBIT B-1

PERMIT APPLICATION

APPLICATION FOR PERMIT *		
Application Date: _____ / _____ /20 _____		
To: City of Dover, Public Utilities, Electric Engineering Department, 860 Buttner Place, Dover, DE 19904		
Desire to:	Attach to Utility Pole(s)	Remove Attachment from Utility Pole(s)
Permit No. _____		Superseded Permit No. _____
No. of Poles this permit _____		Sheet 1 of _____
Application Permit Fee _____		
Desire to:	Lease conduit space	Remove cable from conduit space
Permit No. _____		Superseded Permit No. _____
Footage desired under this permit $ _____		Sheet 1 of _____
Application Permit Fee $ _____		
Licensee Name: _____		
Address: _____		
Contact Person: _____ , Title: _____		Phone No. _____
Utility Contact Person: _____ , Title: _____		Phone No. _____
Narrative Description of proposed activity:		
_____		
_____		
_____		
_____		
As a condition to obtaining a License Agreement, every Licensee shall warrant that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on and around the City's Facilities by the Licensee's employees, servants, agents, contractors or subcontractors, and that Licensee accepts as the duty and sole responsibility to inform its employees, servants, agents, contractors or subcontractors of such dangers and to keep them informed regarding same.		

In accordance with the terms and conditions of the Pole Agreement dated _____ / _____ /20 _____ , application is hereby made for a Permit to attach to and/or vacate Pole(s) in the locations detailed on the attached Route Map(s).	
Permission is hereby granted to Licensee to attach and/or vacate poles listed on the attached Field Data Summary Sheets, subject to payment of the necessary Make-Ready Work charges as set out by the City and agreed to by the Licensee.	
SUBMITTED:	APPROVED:
Attaching Entity _____	City of Dover, Public Utilities, Electric Dept. _____
By _____	By _____
Title _____	Title _____
Date _____	Date _____
* The parties may substitute a different, mutually agreeable, permit form.	

EXHIBIT B-2

PERMIT FOR ATTACHMENT

TO:
DATE:

JOB NUMBER: _____

The primary Poles designated below are hereby Permitted for Attachment:

Pole Identification	Number of Attachments Licensed on this Pole as of the Above Date

Note: Attachments permitted automatically as a result of an NESC audit are indicated with an asterisk (*).

Name: _____ Signed: _____
City of Dover

Title: _____

EXHIBIT B-3

NOTICE OF DISCONTINUANCE OF ATTACHMENT TO POLES

TO: City of Dover
860 Buttner Place
Dover, DE 19904

LICENSEE: _____ DATE: _____

This is to notify you that Licensee's Attachments have been removed from the following Poles and that billing for those Attachments should cease as of the indicated date.

Pole Identification	**Date Attachment was Removed**	**Date Billing Ceases**

Name: _____ Signed: _____

Title: _____

Tel: _____

Email: _____

COMMITTEE ACTION FORM

PROCEEDING: Legislative, Finance & Administration Committee

DEPARTMENT OF ORIGIN: Customer Service Department **DATE SUBMITTED**: August 20, 2020

PREPARED BY: Patricia Marney, Customer Service Director

SUBJECT: Equalized Payment Plan program (also known as Budget Billing) - Options

REFERENCE: N/A

RELATED PROJECT: N/A

REVIEWED BY: Matt Harline, Assistant City Manager & Lori Peddicord, Controller

EXHIBITS:

EXPENDITURE REQUIRED: Estimated $0.00 - $18,000.00 **AMOUNT BUDGETED**: $0.00

FUNDING SOURCE (Dept./Page in CIP & Budget): N/A

TIME TIMETABLE: September 30, 2020

RECOMMENDED ACTION: Staff is providing two options as it relates to the Budget Billing Program.

1. Discontinuation of the Equalized Payment Plan program, thus requesting that it be removed from the Electric Service Handbook and Water / Wastewater Handbook as an available program.
2. Temporarily pause the budget billing program while the new accounting program is implemented. Restart the program in October 2021. This option does involve a cost to the City of approximately $18,000.00 and initiation of a $5.00 per customer per month charge.

BACKGROUND

Upon review of the City of Dover utility customer accounts following an ERP implementation meeting, it was identified that a total of 418 customers participate in the equalized payment plan program, also known as the budget billing program. While the program is promoted to customers few customers opt to participate in the program.

As of July 2020, the City of Dover has 21,157 active residential utility customer accounts. The total number of participants in the Equalized Payment Plan program equates to 1.9% of the City's total residential customer base. During several Phase 4 ERP implementation meetings, it has been determined that although there is a Tyler/Munis solution for Budget Billing, additional implementation time and expense would be required to proceed with the implementation of the Equalize Payment Plan (Budget Billing) program within Munis.

The City of Dover Customer Service Department and Phase 4 implementation team would like to provide two options to the City in regard to the Equalized Payment Program (Budget Billing Program).

OPTION ONE

Given the level of participation as well as the additional cost the City would incur in implementing the program in the new utility billing software program (Munis), the City of Dover Customer Services management staff respectfully request permission to discontinue the program effective September 30, 2020. In doing so, we further request the permission to remove the program details from the Electric Service Handbook and Water / Wastewater Handbook.

OPTION TWO

Pause Budget Billing program participation until October 2021 and after the successful completion of Phase 4 (Utility Billing) of the ERP project. This will allow the ERP project team time to implement the new program software as well as build and test the budget program in the new accounting software.

Cost – The cost of building the budget program in Munis is approximately $18,000.00. This includes City of Dover employee time, Munis non-contracted services for build and implementation as well as utility bill customization. Total time required for implementation is estimated to be 48 hours. This cost is in addition to the current budgeted project fees and may require a project budget amendment if this option is chosen.

While the budget program is an available option in the Munis utility billing program, implementation time and utility bill customization related to budget billing was not included in the phase 4 contract.

Munis Recommendation – Per our implementation project manager, Rachel Green's recommendation to avoid project delay, the H.T.E. budget accounts should be at a settled status while the project team is working through conversion and implementation. If accounts are not in a settlement status additional reconciliation time may be required above and beyond the 48 hours quoted. This may primarily be the burden of City staff, however, there may be additional unknown costs above the $18,000.00 estimate.

Implement a fee beginning with the new budget season, October 2021 –The project team has recommended a $5.00 per customer per month charge to cover the estimated cost of implementation and administration of the budget program. It is recommended that this be an on-going monthly charge as the administration of this program is time consuming.

Should either option be granted the below alternatives are available to customers.

ALTERNATIVE SERVICES TO BE OFFERED TO CUSTOMERS

- Provide annual cost based on prior year's usage.
- Provide permanent due date.
- Provide autopayment.
- Extended payment agreements to those with large settle balances.
- Place a "no disconnect" hold on accounts for the first year following the end of the program under option one or during the holding period under option two above. Note – if accounts are over 60 days past due the "no disconnect" hold would be removed.

Exhibit A – Program description per the Electric Service and Water / Wastewater Handbook.

Exhibit A – Equalized Payment Plan
Electric Service and Water / Wastewater Handbook Excerpt

EQUALIZED PAYMENT PLAN An equalized payment plan will be permitted for residential customers meeting these requirements. Monthly payments for the service address will be based on estimated cost of total consumption for the eleven-month period October through August, with additional billing being made in the remaining one (1) month. Adjustments in monthly payments may be made after each quarterly review and may indicate that the original estimate consumption was too high or too low. Additional information can be obtained by contacting Customer Service.

City of Dover
City Manager's Office
PO Box 475
Dover DE 19903-0475
Phone: (302-736-7005
E-Mail: dmitchell @dover.de.us

MEMORANDUM

To: Legislative Finance & Administrative Committee

From: Donna Mitchell, City Manager
Michael Hamlett, Central Services Director
Barry Wolfgang, Purchasing & Procurement Manager

Copy: Matthew Harline, Assistant City Manager, Mayor Christiansen, and City Clerk

Date: September 9, 2020

Subject: Proposed Amendments to the Purchasing Policy

Please find attached the City of Dover Purchasing Policy with staff recommended changes. While many of the changes are administrative due to the new ERP system processes versus our prior system along with expansion on some of the definitions for clarity (Glossary), the most significant changes are included below for your guidance.

Section 4 – Professional Services

Eliminates the three tier requirements for professional services, and only requires RFP's for services budgeted over $50,000. This was already the threshold for Public Works/Utility Engineers. Anything lower can be completed through open market quotes based on discretion of the Department Head. This aligns the City Policy with the State of Delaware procurement rules.

Section 5 – Public Works & Utility Contracts

Changes the thresholds for open market, Mandatory written quotations, and formal bids. Maintains the $50,000 threshold for Engineering services.

Also note, our new ERP system does provide a check box for Minority Business Enterprises where the prior system did not have this feature or did not have it being used. We will work on getting this check box filled in for the minority vendors as well as add it to any new vendor records.

CITY OF DOVER

PURCHASING POLICY & PROCEDURES

ISSUED BY: FINANCE & CENTRAL SERVICES

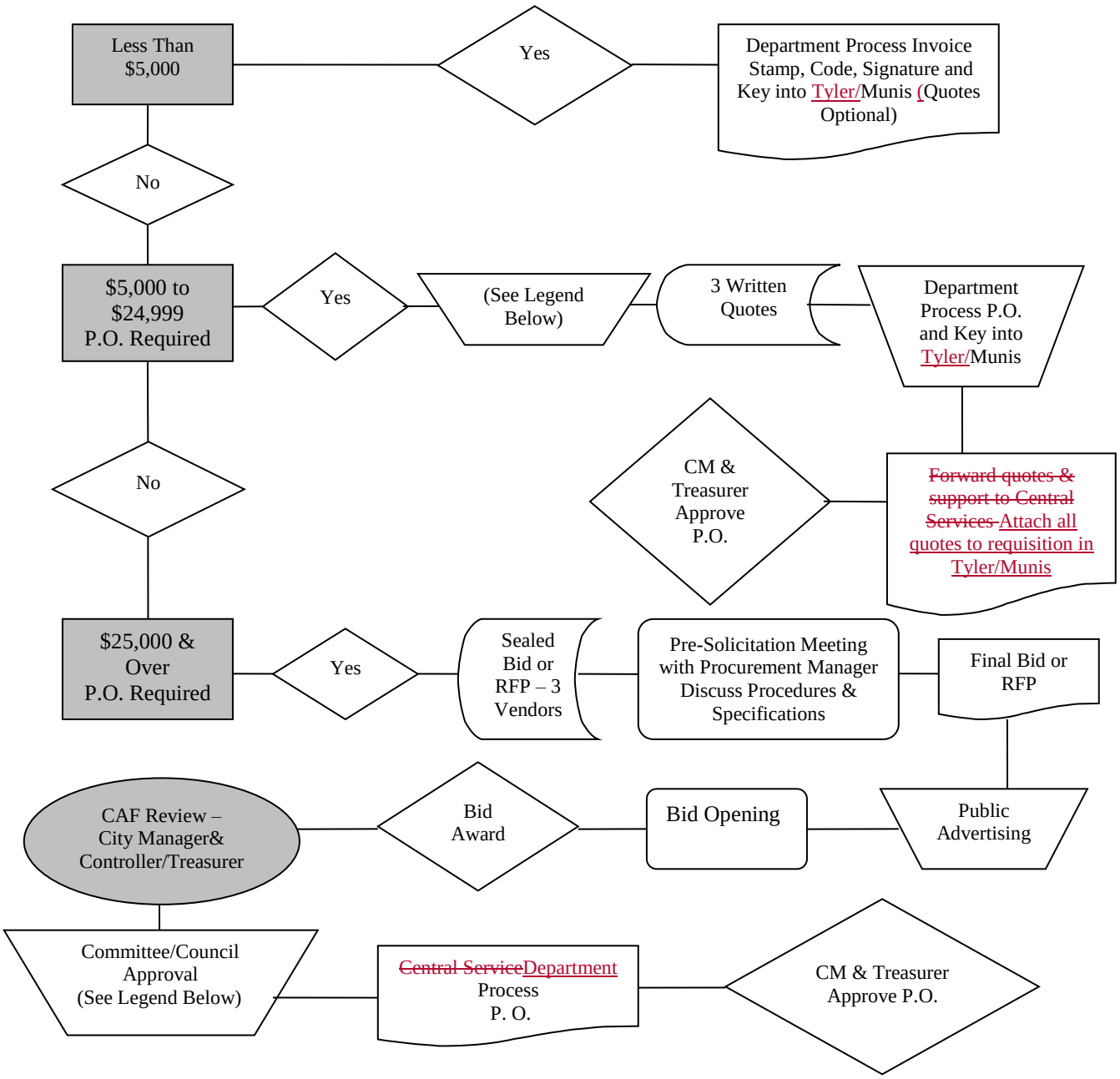
AMENDED ~~OCTOBER 22, 2018~~

Purchasing Policy & Procedures
Table of Contents

Section	Title	Page #
	Purchasing Flow Chart	3
1	The Purpose	4
2	Ethics in Purchasing	4
3	Purchasing Limits & Authority	4
3.1	General Guidelines	4
3.2	Subdividing Purchases	5
3.3	Fleet Vehicles & Associated Equipment	5
3.4.1	Equipment Purchases $25,000 - $199,999	5
3.4.2	Equipment Purchases over $200,000	5
3.5	Purchasing Threshold Table for Anything not Covered Under Section 4 or Section 5	6
3.6	Cooperative Purchasing	7
3.7	Standard Forms	7
3.8	Inspection and Full Payment	7
3.9	Warranties	7
3.10	Authorized Personnel	7
3.11	Change Orders	7
4	Professional Services Guidelines	8
4.1	Request for Proposals	8
4.2	Total Cost ~~Up to $7,500~~ Less than $50,000	8
4.3	Total Cost ~~Between $7,500 and $25,000~~ $50,000 and Over	9
~~4.4~~	~~Total Cost Greater Than $25,000~~	~~9~~
4.~~5~~4	Subdividing the Purchases of Services	9
4.~~6~~5	Documentation	9
4.~~7~~6	Change Orders	9
5	Public Works & Utility Type Contracts & Certain Professional Services.	9
6	Exceptions	11
6.1	Sole Source Procurement	11
6.2	Warehouse Stock	11
6.3	Negotiations	11
6.4	Used Materials and Equipment	11
6.5	Continuity of Service	11
6.6	Emergency	11
6.7	Minority Owned Vendor Preference	12
6.8	Local Vendor Preference	12
7	Receiving	12
8	Credit Card Purchases	13
9	Invoices and Payments	13
10	Green Procurement	14
11	Debarment of Vendors for Consideration of Awards	15
12	Committees/Commissions	16
Appendix A	Standards of Ethical Conduct and Ethics Commission	17
Appendix B	Invitation to Bid and Request for Proposal Procedures	28
Appendix C	Sample Bid Bond	31
Appendix D	Sample Performance Bond	32
Appendix E	Glossary	34

Appendix F Quotation Worksheet (for Purchases between $5,000 and $24,999) .....~~39~~40

Purchasing Flow Chart



LEGEND:
Requires Council Approval if:
Sole Source Procurement
Not low bid
Bids that exceed amount budgeted
Projects $200,000 and greater
Vehicles/Equipment $200,000 and greater
Professional Services $25,000 and greater (non-Public Works & Utilities)
Professional Services $50,000 and greater (Public Works & Utilities)

CITY OF DOVER
PURCHASING POLICY

SECTION 1 - THE PURPOSE

The purpose of the adoption of a purchasing policy is to establish the authority, limits and procedures relating to the purchasing of materials, supplies, equipment, construction, Public Works type contracts, and professional services.

SECTION 2 - ETHICS IN PURCHASING

Public employees and elected officials must discharge their duties impartially to assure competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of City procurement. Dover Code Article II Section 30 (Appendix A), establishes standards of ethical conduct among public officials and employees. Vendors participating in the City procurement will be disqualified from the procurement if the employee, official or vendor is found to be in violation of the City's ethical standards and a referral of the matter will be presented to the Ethics Commission. Failure to familiarize oneself with the provisions of this policy and appendices will not be accepted.

SECTION 3 - PURCHASING LIMITS & AUTHORITY

3.1 GENERAL GUIDELINES

This section outlines the purchasing limits and guidelines for materials and supplies based on the purchase amount. No department or employee shall ~~commit the expenditure of~~ obligate City funds until the procedures of this section have been complied with. No employee or official shall have purchases shipped directly to their home.

For this policy, the purchase amount is considered the purchase order total. Warehouse stock must be reduced to the item's reorder level prior to using open market purchases as authorized by this policy.

While purchasing goods and services for the City, the procedures and guidelines which are described in this purchasing policy are to be strictly followed. All purchasing related records must be kept ~~in the Central Services Department~~ for the period prescribed in the State Bureau of Archives Retention Schedule. These records may include, but are not limited to, request for proposals, vendor proposals, analysis of proposals, change orders and a copy of the purchase order(s).

The Information Technology Department is to provide a technical review of all specifications for computer software and hardware purchases regardless of cost. The applicable Information Technology personnel should be consulted on all bid evaluations for computer hardware, software, or other related equipment.

No agreement or contract shall be entered into, nor expense incurred by any division, which will result in an obligation more than the appropriation made to the division. It is the division's responsibility to see that funds are in the proper accounts before obligating or

expending funds. If the funds are not in the proper account, the transaction will not be processed. The department must request a transfer of funds through ~~the City Manager's Office and Finance Department~~ Tyler/Munis. Override of funds availability must be approved by the Controller/Treasurer and the City Manager.

3.2 SUBDIVIDING PURCHASES:

Multiple purchase orders issued by a department for the same items during the same time frame in an attempt to negate the purchasing policy restrictions will be considered a clear violation of the purchasing policy; also considered subdividing purchases.

3.3 FLEET VEHICLES & ASSOCIATED EQUIPMENT:

Purchase~~s~~ of fleet vehicles and associated equipment shall not require Council approval when the purchases have been approved in the budget for the then current fiscal year. However, no vehicle designated as a replacement for any vehicle then currently owned by the City of Dover shall be purchased or ordered for purchase unless and until the then currently City-owned vehicle has been mechanically evaluated and determined by Fleet Maintenance to be no longer reliable for use in its then current capacity. All items within the amount budgeted must have a vehicle/equipment replacement request completed and forwarded to the City Manager for approval. Council approval is always required when the purchase is from sole source procurement, when the vendor is not the low bidder, or when the purchase price is higher than the budgeted amount for that vehicle and the overage cannot be made up through savings on other vehicles and equipment. To qualify as low bidder, the bid must meet the bid specifications. The City Purchasing Agent is authorized to purchase vehicles and equipment through the State of Delaware and cooperative contracts when in the best interest of the City.

3.4.1 EQUIPMENT PURCHASES $25,000 - $199,999:

Budgeted equipment specifically identified in the Capital Improvement Plan does not need Council approval unless the purchase is sole vendor, sole source procurement, or not low bid. The purchase does not require construction or ancillary services. Equipment purchases $200,000 or greater requires Council approval.

3.4.2 EQUIPMENT PURCHASES OVER $200,000

Cooperative Purchasing will not be permitted for any vehicles or equipment valued over $200,000. Sealed bids will be required.

3.5 PURCHASING THRESHOLD TABLE

PURCHASING THRESHOLDS		
Less than $5,000	**$5,000 to $24,999**	**$25,000 & Over**
Open market; Department Head discretion to obtain quotes~~;~~	Department Head solicit no less than three (3) written quotations; ~~I~~if fewer than three (3) quotations, justification must be included within the requisition in Tyler/Munis~~;~~	Formal Invitation to Bid (ITB) or Request for Proposal (RFP~~/RFQ~~); ~~N~~no less than three (3) potential vendors email addresses supplied to ~~Central Services~~ Procurement/Inventory by requesting Department~~;~~
Purchases will be made by designated personnel~~;~~	Quotations and support documentation ~~to be maintained in Central Services files as public record~~ are to be attached to requisition in Tyler/Munis; ~~U~~use the quotation worksheet in Appendix F~~.~~	Pre-Solicitation Meeting ~~required~~ recommended of the respective Department & Procurement Manager to discuss appropriate procedures and specifications~~;~~
Approved invoices ~~sent to Accounts Payable~~ are to be entered in Tyler/Munis for payment~~.~~	Requires requisition and purchase order through ~~the financial system~~Tyler/Munis~~;~~	Public sealed bid or sealed proposal procedures as outlined in Appendix B~~;~~
Purchases under existing City contracts shall be made in accordance with the terms of such contract~~.~~	All purchases will be made by ~~Central Services or the Police Department Purchase Coordinator~~ soliciting Department~~by~~ utilizing a Purchase Order ~~or Contract,~~	Public Advertising at least once a week for two (2) consecutive weeks in publication with circulation in each county of the State; ~~A~~additional advertising discretionary~~;~~
Supplies available from City stock should not be procured from third party vendors~~.~~	Award shall be made to the lowest and the best quotation; ~~V~~vendor references may be checked~~;~~	~~Lowest and/or most responsive bid will be accepted; Vendor references may be checked to verify ability to meet contract requirements;~~ Public Bid/Proposal Opening; time and date of public bid opening shall be stated in the notice for bids; delivered to Procurement/Inventory, 710 William Street, Dover, DE 19904
Item numbers, quantities, unit cost, and extension must be completed on every purchase order for materials or paying for contracted labor at hourly rates~~;~~	Item numbers, quantities, unit cost, and extension must be completed on every purchase order for materials or paying for contracted labor at hourly rates~~;~~	~~Public Bid/Proposal Opening; Time and date of public bid opening shall be stated in the notice for bids; Delivered to Central Services, 710 William Street, Dover, DE 19904~~ Faxed bid is not acceptable for this category; sealed bids may be emailed to bids@dover.de.us or as agreed to with the Department Head
Approval assigned at Department Head Level	Fax and email quotations are acceptable~~;~~	~~Bid Bond or certified check in the amount equivalent to ten percent (10%) of the bid amount for items/contracts over $25,000; Can be waived by Purchasing Agent and Department Head;~~ Lowest and/or most responsive bid will be accepted; vendor references may be checked to verify ability to meet contract requirements
	Departmental approval assigned by Department Head; Electronic Approval – Asst. City Manager, City Manager & Controller/Treasurer	~~Performance Bond required for construction work;~~ Bid Bond or certified check in the amount equivalent to ten percent (10%) of the bid amount for items/contracts over $25,000; can be waived by Purchasing Agent and Department Head
	Purchase Order to include: Unit Cost $~~;~~ ~~A~~account number; project number if applicable; b~~B~~rief description of item or service when not identifiable; ~~Q~~quotes from each vendor in	~~Faxed bid is not acceptable for this category; Sealed bids may be emailed to bids@dover.de.us or as agreed to with the Department Head;~~ Performance Bond required for construction work

	comments~~;~~	
	NOTE – Changes to Purchase Orders are to be completed through the financial systems. Purchase Orders received with manual changes to amounts/unit cost will not be processed by the Finance Department~~.~~	Purchases exceeding $25,000 shall require Council approval for sole source procurement, greater than budget and not low bidder~~;~~. Committee/Council Action Forms to include: ~~B~~budget $, P. O. $ or ~~U~~unit ~~C~~cost $~~;~~, ~~A~~account number~~;~~, project number~~;~~, page number in budget~~;~~, ~~B~~bid/RFP number if applicable~~.~~, ~~I~~if unit cost was bid include~~s~~ cost comparison~~.~~, ~~I~~if blanket bid or proposal is for recurring services~~,~~ provide average annual cost for past three years for the service~~.~~ and~~ D~~description and recommended action~~.~~

3.6 COOPERATIVE PURCHASING:

The City of Dover is permitted to use ~~state, county, municipal, and other government~~ cooperative contracts to purchase material once it has been determined that the procedures outlined within this policy will not be violated. To use cooperative purchasing the quantities and timing of the materials must be coordinated with the partnering entity to insure cost savings through economies of scale. Any deviation from this policy for cooperative purchasing must be approved by the City Manager and Treasurer prior to entering into any purchase agreement. ~~Cooperative Purchasing will not be permitted for any vehicles or equipment valued over $200,000. Sealed bids will be required.~~

3.7 STANDARD FORMS:

All purchasing related forms and bid documents are developed and standardized for the City of Dover by ~~Central Services~~ Procurement/Inventory. No substitutions of the City of Dover purchase order form or other standardized forms will be permitted. Where applicable, unit(s) of measure and unit cost must be included in the purchase order. Purchase orders with the quantity of one (1) will not be accepted unless the quantity is truly one (1).

3.8 INSPECTION AND FULL PAYMENT:

Upon receiving materials and equipment and upon completion of construction, the City of Dover shall cause a detailed inspection. Full payments for the purchases will be made only upon the department head's complete satisfaction as to the fulfillment of all the conditions of the contract. The department will ~~notify Central Services that the purchase order may be released for payment~~ authorize final payment for materials and equipment upon completion of construction.

3.9 WARRANTIES:

The department requesting the material or service shall monitor and maintain all warranties.

3.10 AUTHORIZED PERSONNEL:

Only authorized personnel can purchase goods for the City of Dover. The authorized signature must appear on the ~~purchase order and~~ invoice(s). The original Authorized Signature Form must be kept in the Finance Office – Accounts Payable. This form must be updated if a new employee will be signing invoices and purchase orders. The Form can be found in Public Docs.

3.11 CHANGE ORDERS:

If, after a purchase contract is awarded, it becomes necessary to add items/work because of unforeseen findings or a scheduled change, a change order can be issued without Council approval as follows:

A) For purchases ~~at~~ of $5,000 - $24,999 the Procurement Manager is authorized to sign purchase order changes up to and including 15% of the original purchase amount when the total dollar value of the purchase does not exceed $25,000 and the amount of the item is still within the amount budgeted for that item.

B) For purchases ~~at~~ of $25,000 or greater, the City Manager and Controller/Treasurer are authorized to approve change orders as follows:

15% of the original purchase amount when the purchase is made on a unit cost basis, the purchase is within the approved (project) budget and/or the approved Council Action Form.

SECTION 4 - PROFESSIONAL SERVICES GUIDELINES

Professional Services are normally solicited by use of a Request for Proposal. This section provides the guidelines and procedures for the procurement of professional services that are not covered by Section 5 – Public Works & Utility Type Contracts and Certain Professional Services.

Examples of the professional services covered under this section are consulting for rate studies; audit services, financial services, and computer related consulting. These are only examples, and the scope of the provisions of this section is not limited to these examples.

4.1 REQUEST FOR PROPOSALS

Evaluation of proposals must adhere to the following guidelines:

1. Determine what proposals are acceptable and unacceptable
2. A determination that a proposal is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file
3. The offeror shall not be afforded an opportunity to modify its offer

Negotiation with individual offerors:

1. The department can negotiate with individual offerors after their proposals are opened.
2. The department shall develop formalized procedures to be consistently applied to each offer
3. Disclosure of one offerors price to another is prohibited
4. The department must send a written request for best and final offers setting forth the date, time, and place for submission of best and final offers
5. The department must inform the offerors that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final

Final Award:

1. The contract shall be awarded within 90 days of the closing date.
2. The department shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the City
3. The determination shall explain the basis of the award
4. ~~Central Services~~ Procurement/Inventory shall notify each unsuccessful offeror in writing of the award

4.2 TOTAL COST ~~UP TO $7,500~~ LESS THAN $50,000:

Professional services covered under this section may be obtained using open market prices. It is the Department Head's discretion to require written proposals from the service providers. The decision to award the contract for professional service shall be based on

performance track records, fees, time schedule and known quality of work. Fax and email proposals are acceptable for this category.

4.3 TOTAL COST ~~BETWEEN $7,500 AND $25,000~~ $50,000 AND GREATER:

For procuring professional services covered under this section, the department shall use the "Request for Proposal" method and in conjunction with the ~~Central Services~~ Procurement/Inventory Manager or authorized purchaser send requests for proposals to available service providers. The request for proposal will clearly include the following:

1. scope of work
2. schedule for work
3. request to provide fees, expenses and payment schedules;
4. last date for submitting the proposal
5. evaluation method
6. address, contact person and phone number.

The services procured under this provision must have the approval of the department head. A purchase order must be issued to include, but not limited to the above, for the total amount, providing details and a reference of the professional services agreement number, if any, and the location. ~~Fax and e~~Email proposals are acceptable for this category. For professional services with fees and expenses totaling more than $50,000, the City Council's approval is required.

~~4.4 TOTAL COST GREATER THAN $25,000:~~

~~For professional services with fees and expenses totaling more than $25,000, the City Council's approval is required. The requirements of 4.3 shall be applicable as a solicitation basis. Email proposals are acceptable for this category.~~

4.~~5~~4 SUBDIVIDING THE PURCHASES OF SERVICES:

The City of Dover departments shall NOT subdivide the purchase or the contract for professional services to avoid the requirements of this purchasing policy.

4.~~6~~5 DOCUMENTATION:

If a firm/consultant under contract to the City of Dover issues a bid/proposal as part of their contract, the original documents must be provided to the City. The final determination for all awards shall rest with the City.

4.~~7~~6 CHANGE ORDERS:

The same procedures as outlined in paragraph 3.10 will apply to professional services regarding change orders.

SECTION 5 - PUBLIC WORKS & UTILITY TYPE CONTRACTS AND CERTAIN PROFESSIONAL SERVICES

"Public Works Contract" means any contract for the construction, reconstruction, alteration or repair of any public building, road, street, highway, water utility, wastewater utility, electric utility or other public improvement, the cost of which will be paid with public funds. Any project materials and supplies purchased by the City, and not a Contractor or Service Provider, are to be procured under Section 3 of this policy.

"Certain Professional Services" means those services within the scope of the practice of architecture, professional engineering, professional land surveying, landscape architecture and geology.

All Public Works and Utility contracts entered for less than ~~$200,000~~$100,000 that are specifically identified in the Capital Improvement Plan do~~es~~ not need Council approval unless the purchase is sole vendor, sole source procurement, or not low bid. Procurement ~~$200,000~~ $100,000 or greater requires Council approval.

Public Works & Utilities		
Less than ~~$25,000~~ $50,000	**~~$25,000~~$50,000 - ~~$199,999~~$99,999**	**~~$200,000~~ $100,000 & Over**
Open market	Solicit three (3) written quotations – MANDATORY	Formal Bidding – Purchaser
$0 - ~~$10,000~~ $24,999 quotations optional	~~Letters~~ Bids/Contract Admin. discretionary	Public Advertising
~~$10,001~~ $25,000 ~~- $25,000~~$49,999; Solicit three (3) phone quotes (attach to ~~purchase order~~ requisition in Tyler/Munis)	Specifications and/or plans discretionary	Specifications and/or plans
Specifications and/or plans discretionary	Bid bond discretionary	Bid Bond discretionary
~~Record quotations on quotation summary form (attach to purchase order)~~	Public Opening discretionary	Public Opening
	Formal Contract discretionary	Formal Contract
	Performance Bond discretionary	Performance Bond
Purchase Order to include: Unit Cost $; Account number; project number if applicable; Brief description of item or service when not identifiable; Quotes from each vendor ~~in comments~~attached to requisition in Tyler/Munis		
Committee/Council Action Forms to include: Budget $, ~~P. O. $~~ or Unit Cost $; Account number; project number; page number in budget; Bid/RFP number if applicable. If unit cost bid includes cost comparison. If blanket bid or proposal is for recurring services, provide average annual cost for past three years for the service. Description and recommended action.		
Footnote – When a project is partially or wholly funded by the State of Delaware: prevailing wage rates apply to projects over ~~$15,000~~ $45,000 for repairs, alterations, rehabs, demolition, or reconstruction or ~~$100,000~~ $500,000 for new construction.		

Public Works & Utilities – Certain Professional Services		
Less than $50,000		**$50,000 & Over**
Open Market		Formal RFP Process
Use same procedure as Section 4.2		Public Advertising; use same procedure as Section 4.~~4~~3
Professional Services for Public Works & Utilities includes services within the scope of practice of architectural, professional engineering, professional land surveying, landscape architectural services and geology.		

PRE-QUALIFICATION OF BIDDERS

Prequalification of Bidders is permitted to screen potential vendors in which such factors as financial capability, reputation and management are considered to develop a list of qualified vendors. The vendors should provide background information on their company, implementation methods, and references. Once the list of qualified vendors is established a Request for Proposal will be developed to include clear specifications, expectations and clearly outlined evaluation criteria. A price range may be requested but is not necessary. Detailed information will be

provided during the RFP process.

SECTION 6 - EXCEPTIONS

6.1 SOLE SOURCE PROCUREMENT:

Sole source procurement is not permissible unless a requirement is available from only a single supplier/manufacturer. A requirement for a propriety item does not justify sole source procurement if there is more than one potential bidder or offeror for that item. The following are examples of circumstances which could necessitate sole source procurement:

- Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration; items of comparable quality and equal function are not to be considered under sole source procurement.
- Where the sole supplier's item is needed for trial use or testing;

If the purchase is over $25,000 ~~however,~~ it must be presented to Council for approval. Sole suppliers/manufacturers must be justified in writing by the Department Director and ~~the justification must accompany the procurement request to Central Services and~~ be approved by the City Manager.

6.2 WAREHOUSE STOCK:

Items placed on annual or multi-year contracts for warehouse stock shall not be subject to Council approval as these items are purchased as individual units and not in blocks. ~~Procurement of items specifically procured for projects through non-stock contracts shall be approved by the City Manager and Treasurer.~~ Increases in unit prices greater than 15% shall be communicated to the respective Department~~ Heads, the City Manager and Controller/Treasurer~~.

6.3 NEGOTIATIONS:

Negotiations are authorized during the Request for Proposal evaluation process, when sole source has been pre-approved or when a material specification or scope of work change occurs after the award of a competitively bid contract.

6.4 USED MATERIALS AND EQUIPMENT:

For the purchase of used or surplus materials or equipment, the provisions of this policy may not apply. Purchases of $25,000 or greater must be presented to Council for their approval.

6.5 CONTINUITY OF SERVICE:

When there is an abrupt discontinuation of service due to breakdown, accident, or other similar event and it is necessary to obtain materials or equipment to continue service to the citizens, the provisions of this policy may be waived by the City Manager. For no other reason should a purchase order be issued for this exception.

6.6 EMERGENCY:

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise. The existence of such condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten:

1. The functioning of the City government.
2. The preservation or protection of property; or
3. The health or safety of any person.

Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency. The Mayor or City Manager will be responsible for deciding as to the existence of the emergency.

6.7 MINORITY OWNED VENDOR PREFERENCE:

Minority owned vendor preference shall be three percent (3%) of the value of the award. The vendor must identify qualification and claim to the preference on the submitted bid documents. The vendor must provide authoritative proof of minority ownership such as identification in the certification directory maintained by the State of Delaware, Office of Management and Budget, Office of Supplier Diversity to qualify for this preference. This preference is to be considered as a stand alone and cannot be added to any other preference that may be allowed. This preference shall not apply to sub-contractors.

6.8 LOCAL VENDOR PREFERENCE:

Local vendor preference shall be considered for materials, equipment, construction contracts, and utility contracts. Local vendor preference shall be three percent (3%) of the value of the award. A local vendor is a vendor with a "remit to" address or physical store location in the local area as identified below. The term local vendor is defined as a gradually increasing range with preference assigned as follows:

Rule 1: Vendor located within the city limits of the City of Dover.
Rule 2: Vendor located within Kent County (if no vendor qualifies under Rule 1)
Rule 3: Vendor located within the State of Delaware (if no vendor qualifies under Rules 1 & 2)

If no vendor qualifies under rules 1, 2, or 3 no local vendor preference shall be awarded. The vendor must identify qualification and claim to the preference on the submitted bid documents. This preference shall not apply to sub-contractors.

SECTION 7 - RECEIVING

7.1 No employee shall pick up or receive goods without his or her supervisor's authorization. In the case of a special project, stock material deliveries may be made to the job site, but should be coordinated through ~~Central Services~~ Procurement/Inventory. ~~Central Services~~ Procurement/Inventory will take charge of the delivery ticket for file and paying of the invoice for stock material only.

Packing slips (proof of receipt) when appropriate are to be attached to the invoice or payment will not be disbursed until these conditions are met. If only an invoice is provided by the vendor, then the employee receiving the item shall sign the invoice as proof of receipt. Proof of receipt must have who received the item and the date the item was received.

7.2 While taking delivery of items the individual accepting the item will sign any one of these documents: Receiving/payment copy of the purchase order, vendor's invoice, delivery slip or packing ticket. The person receiving the goods and signing the receipt document must verify the quantity and item description/part number with the purchase order or any other document and must check the condition of the items/packages to make reasonably sure that there are no problems with the delivery. If ~~the~~ problems are observed, the notes must be

made on the receiving documents or the delivery must be returned. Partial delivery is acceptable. The original receipt of all documents must be forwarded to ~~Central Services~~ Procurement/Inventory for stock material only.

7.3 No City employee will sign for any item or service, which is not received.

7.4 Payment for the goods will be made only to the extent the goods are received by the City.

SECTION 8 - CREDIT CARD PURCHASES

8.1 The City does not encourage credit card purchases.

8.2 The City has a very limited number of credit cards for stores where the purchases are more easily made with a credit card or where vendors do not bill the City and credit cards are necessary.

8.3 The employee using a store credit card must make sure of the purchase price, quantity, quality and the necessity of the item. The person must sign as required and turn in the purchaser's copy of the credit card receipt ~~slip~~ to their department for processing and send to Accounts Payable ~~immediately~~ upon receipt of credit card statement.

8.4 The credit card must be used only by authorized personnel and cannot be used for personal business.

8.5 All credit cards shall be handled through the Finance Department as outlined in Procedure F346.

8.6 The City does not encourage use of personal credit cards for business purchases. Where use of a personal credit card is necessary to complete City of Dover business in a timely and/or efficient manner, the employee is not authorized to approve their own reimbursement request. The reimbursement request must be approved by other authorized personnel.

SECTION 9 - INVOICES AND PAYMENTS

9.1 For payment purposes, the original invoices must carry the following: ~~–~~approval stamp, authorized signature, G/L# and date. All employee travel expenditures are to be processed with a purchase order including other reimbursements. Purchases over $5,000 must also include a purchase order. Each department will be entering their own ~~I~~invoices and ~~Purchase Orders~~ requisitions into ~~Tyler Hub (Munis)~~ Tyler/Munis. Batches will be released and/or approved by departments before Accounts Payable ~~can~~ will review and process payments to vendors. ~~When processing~~ Delay in submission of invoices~~/requisitions/purchase orders, do not enter at the last minute, as this~~ will result in delay of payment to vendors. ~~Invoices/Purchase Orders and other~~ All supporting documentation ~~related to payments~~ must be ~~upload~~ attached to invoice in~~to~~ Tyler/Munis ~~in Invoice/Purchase Order Entry~~. ~~Do not forward vendors to the Finance office to look for payment or pickup checks.~~ Departments are responsible for ~~corresponding with vendors when there are discrepancies in past due invoices and payment status~~ ensuring invoice processing is completed, approved and submitted for payment prior to forwarding vendors to Finance for payment inquiries.

9.2 ~~Invoices for vendors not loaded in Munis (Tyler) must be accompanied by the City of Dover~~

~~new vendor form and a completed IRS form W-9, both of which are in public documents. Department and Vendors must use the Munis Self Service - Vendor Self Service Portal to upload W-9 or other vendor related documents. One-time vendor payment must be less than $600.00 for the calendar year and does not require a W9.~~ Vendors must be registered in Tyler/Munis for invoices $600.00 or more per calendar year. A completed new vendor form and IRS Form W-9, both available in public documents/forms/accounts payable, must be forwarded to Finance to have the vendor established in Tyler/Munis. All purchases less than $600.00 per calendar year will be considered a one-time vendor and not require a W-9.

9.3 ~~The purchaser/authorized personnel must note that it is the City's policy to take all discounts and therefore the payment documents must be submitted to Accounts Payable immediately.~~

~~In other cases, i~~It is the City's policy to pay the invoices on time and, therefore, the payment documents must be ~~submitted to Accounts Payable~~ process in Tyler/Munis as soon as possible.

SECTION 10 – GREEN PROCUREMENT

10.1 The City of Dover is committed to using and purchasing energy efficient/environmentally preferable products in the most cost effective and environmentally responsible manner possible. Purchasing energy efficient products reduces energy costs without compromising quality. Purchases should be based on:

1. Consideration on the impact to the environment, economy, and human health and well-being.
2. Consideration of specification compliance, delivery time and price.
3. Preference given to environmentally preferable materials when they perform satisfactorily and can be obtained at a reasonable price.

10.2 The US Government in Executive Order 12873 defined environmentally preferable products as "products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose." This should include items that are energy efficient, conserve water, reduce~~s~~ toxins, conserve~~s~~ natural resources, ~~has~~ have recycled content, ~~and~~or minimize~~s~~ waste.

10.3 The Procurement Manager shall establish a price preference of up to ten percent (10%) for recycled and other environmentally preferable products. This price preference must be established in advance of any bid and must be included in the bid specifications, cover letter or evaluation criteria. This percentage may be modified from time to time at the discretion of the Procurement Manager with the objective of maximizing the City's purchase of environmentally preferable products.

10.4 LIFE CYCLE COST ANALYSIS

The requesting department shall perform lifecycle costing analysis on equipment that has the potential to reduce operating, maintenance or energy costs over the useful life of the equipment. Based on said analysis, the contracting agency shall incorporate specifications in the contract for equipment that has the lowest total cost of ownership and operation over the useful life of the equipment. The use of lifecycle costing analysis may be waived by the department head, in writing, if the equipment is not appropriate for lifecycle costing analysis. ~~Appendix E contains a sample form for life cycle cost analysis.~~

10.5 ENERGY EFFICIENT PRODUCTS

A) The City shall purchase Energy Star products, as designated by the federal Environmental Protection Agency, when such products are available. The department may include non-Energy Star rated equipment as an alternate in the bid documents to enable lifecycle costing analysis to be performed as part of the analysis of responsive bids. The department shall be required to award a contract that includes the procurement of Energy Star rated equipment unless they can demonstrate, in writing, to the satisfaction of the City Manager, that the interests of the city would be better served by procuring non-Energy Star rated equipment.

B) Prior to initiating a request for procurement of any product, the department shall review the specifications for such product to determine whether an Energy Star product is available. If an Energy Star product is available, the department is required to include in its bid specifications the requirement that the product be an Energy Star product unless it can be demonstrated, in writing, to the satisfaction of the department head, that a product with an Energy Star rating meets at least 1 of the following criteria:

1. The product is not available competitively~~,~~
2. The product is not available within a reasonable time frame~~, or~~
3. The product does not meet appropriate performance standards~~.~~

SECTION 11 – DEBARMENT OF VENDORS FOR CONSIDERATION OF AWARDS

11.1 Any vendor who fails to perform ~~a contract or complete a project within the time~~ as outlined in the established ~~within the~~ contract ~~or invitation to bid~~ may be subject ~~for~~ to suspension or debarment. Once a problem with a vendor/contractor is discovered, the Department responsible for the contract will document the problem and all attempts at resolution. The vendor/contractor will be held in breach of contract. The responsible Department must submit a recommendation of debarment to the City Manager and the Procurement Manager. If enough cause is determined, the City Manager (with advice from the City Solicitor, if necessary) and/or the Procurement Manager will provide reasonable notice to the Vendor and allow a reasonable time for that vendor to be heard. The City Manager shall have the authority to debar a vendor/contractor for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years.

11.2 The causes for debarment include:

A) Conviction of or civil judgment for commission of a fraud or a criminal offense in connection with obtaining or attempting to obtain or performing a public or private contract or subcontract;

B) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty;

C) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

D) Violation of contract provisions, as set forth below, of a character which is regarded by the City Manager to be so serious as to justify debarment action:

i. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

ii. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts; if failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be a basis for debarment;

E) Any other cause the City Manager determines to be as serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity for any cause listed in this article; and

F) For violation of the ethical standards set forth in Section 2 of this policy or Dover Code, Chapter 30.

11.3 The City Manager is authorized to suspend a person from consideration for award of contracts pending his/her decision if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall continue until the debarment decision has been made. The City Manager shall notify the person to be debarred in writing and set forth the basis for the action. A copy of the notification shall be sent to the Mayor and Council. The written notification shall be delivered to the person to be suspended either in person or by certified mail. The decision shall state the basis for the action taken.

11.4 Before the award of any contracts utilizing federal funds, the ~~user~~ department must exclude any vendors listed on the Federal Government's Excluded Parties Listing located at ~~www.epls.gov~~www.sam.gov.

SECTION 12 - COMMITTEES/COMMISSIONS

12.1 All City of Dover appointed Committees and Commissions are required to follow the City of Dover purchasing policy, unless otherwise directed by City Council.

12.2 The Committee Chair or designated City staff member is authorized to purchase materials.

12.3 A list of the names of the individuals authorized to make purchases along with each authorized individuals' signature are to be submitted to the Finance Department.

12.4 A proposed work plan or budget will be required prior to disbursement of funds.

12.5 The ~~Central Services and~~ Finance Department~~s~~ will give each Committee Chairperson a purchasing orientation~~. A~~ and provide a copy of the Purchasing Policy ~~will be provided~~.

EFFECTIVE DATE

Adopted by City Council December 8, 2008

Amended by City Council February 28, 2011

Amended by City Council October 22, 2018

APPENDIX A

STANDARDS OF ETHICAL CONDUCT AND ETHICS COMMISSION

ARTICLE II – STANDARDS OF ETHICAL CONDUCT

Chapter 30, Section 30-20. - Established.

High ethical standards among public officials and employees are essential to gain and maintain the confidence of the people, because such confidence is essential to the conduct of free government. Public officials and employees are agents of the people and hold office for the benefit of the public. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully and impartially the duties of their offices, regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach. These standards of ethical conduct are adopted in order to secure this desired high level of public trust, ensure the impartiality of public officials and employees, and impose standards of accountability.

(a) *General responsibilities of officials and employees.*

(1) Officials and employees have the common obligation of serving the public. In performing their duties, they shall treat the public and each other with respect, concern, and responsiveness, recognizing that their common goal of exceptional public service can only be achieved by working together. Disputes that arise among public servants shall be resolved at the lowest possible level; keeping in mind that public money spent on resolving these disputes is money not spent on important public needs.

(2) Officials and employees shall treat their position as a public trust, with a fiduciary duty to use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

(3) Officials and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.

(4) Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.

(5) No official or employee may request or receive, and no person may offer any money, thing of value or promise thereof, other than any city pay received, that is conditioned upon or given in exchange for promised performance of an official act.

(b) *Appearance of violation.* Each city employee and official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is engaging in acts which are in violation of his public trust and which will not reflect unfavorably upon the city and its government.

(c) *Private interest; gifts.* No city employee or official shall have any interest in any private enterprise, nor shall he incur any obligation of any nature which is in substantial conflict with the proper performance of his duties in the public interest. No city

employee or official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

(1) Impairment of independence of judgment in the exercise of official duties;

(2) An undertaking to give preferential treatment to any person;

(3) The making of a governmental decision outside official channels; or

(4) Any adverse effect on the confidence of the public in the integrity of the government of the city.

(d) *Interest in private enterprise.* No city employee or official shall acquire a financial interest in any private enterprise which he has reason to believe may be directly involved in decisions to be made by him in an official capacity on behalf of the city.

(e) *Prohibitions relating to conflicts of interest*. No councilman or other official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter.

(1) *Restrictions on exercise of official authority.*

a. Prohibited participation. No city employee or official may participate on behalf of the city in the review or disposition of any matter pending before the city in which he has a personal or private interest, provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.

b. *Impairment of judgment.* A person has an interest which tends to impair his independence of judgment in the performance of his duties with respect to any matter when:

i. Any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or

ii. The person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

c. *Statutory responsibility.* In any case where a person has a statutory responsibility with respect to action or inaction on any matter where he has a

personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided that, promptly after becoming aware of such conflict of interest, he files a written statement with the ethics commission, fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(2) *Restrictions on representing another's interest before the city.*

a. *Prohibited.* No city employee or official may represent or otherwise assist any private enterprise with respect to any matter before the city.

b. *Exception.* This subsection shall not preclude any city employee or official from appearing before the city or otherwise assisting any private enterprise with respect to any matter in the exercise of his official duties.

(3) *Restriction on contracting with the city.*

a. *Prohibited.* No city employee or official shall benefit from any contract with the city, nor solicit any contract, and shall not enter into any contract with the city (other than an employment contract).

b. *Ownership of enterprise.* No private enterprise in which a city employee or official has a legal or equitable ownership of more than ten percent (more than one percent in the case of a corporation the stock of which is regularly traded on an established securities market) shall enter into any contract with the city (other than an employment contract) unless such contract was made or let after public notice and competitive bidding.

(f) *Postemployment restrictions.* No person who has served as a city employee or official shall represent or otherwise assist any private enterprise on any matter involving the city, for a period of two years after termination of his employment or elected or appointed status with the city, if he gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his official duties as a city employee or official, nor shall any former city employee or official disclose confidential information gained by reason of his public position, nor shall he otherwise use such information for personal gain or benefit.

(g) *Unauthorized disclosure of confidential information.* No person shall disclose any information required to be maintained confidential by the ethics commission under section 30-3(b), 30-73 or 30-74.

(h) *Abuse of office.*

(1) *Political contributions.* No elected city official shall agree to sponsor legislation, or to influence in any manner the formulation or passage of legislation, in exchange for political contributions or promises thereof.

(2) *Substantial interest.* No elected city official shall vote for, or promote in any manner whatsoever, legislation affecting any subject matter in which he has a substantial interest. Any such interest shall be disclosed by said elected official prior to a vote on any such legislation, and said elected official shall vote "abstain" when called upon to vote.

(3) *Use of city property.* No city official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided for the use of such official or employee in the conduct of official business as a matter of municipal policy.

(4) *Personal gain.* No city official or employee shall utilize the influence of his office or position for personal pecuniary gain, or to avoid the legal consequences of his personal conduct.

(i) *Criminal sanctions.*

(1) *Penalties.* Any person who knowingly or willfully violates any provision of this section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than one year and by a fine as provided for in Appendix F—Fees and Fines.

(2) *Time limitations.* A prosecution for a violation of this section shall be subject to the time limitations of 11 Del. C. § 205.

(j) *Contracts voidable by court action.* In addition to any other penalty provided by law, any contract entered into by any city agency in violation of this chapter shall be voidable by the city agency; provided that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the city agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the city agency involved has, or should have, knowledge of such violation.

(k) *Private gain.* No city employee or official shall use his public office to secure unwarranted privileges, private advancement or gain.

(l) *Confidential information; prohibited activity.* No city employee or official shall engage in any activity beyond the scope of his public position which might reasonably be expected to require or induce him to disclose confidential information acquired by him by reason of his public position.

(m) *Disclosure of information.* No city employee or official shall, beyond the scope of his public position, disclose confidential information gained by reason of his public position, nor shall he otherwise use such information for personal gain or benefit

(n) *Ex parte communications* . No official or employee shall encourage, make or accept any ex parte or other unilateral application or communication that excludes the interests of other parties in a matter under consideration when such application or communication is designed to influence official decision or conduct of the official or other officials, employees or agencies in order to obtain a more favored treatment or special consideration to advance the personal or private interests of himself or herself or others. The purpose of this provision is to guarantee that all interested parties to any matter shall have equal opportunity to express and represent their interests.

Any written ex parte communication received by an official or employee in matters where all interested parties should have equal opportunity for a hearing shall be made part of the record by the recipient.

Any oral ex parte communication received under such conditions should be written down in substance by the recipient and also made a part of the record.

A communication concerning only the status of a pending matter is not regarded as an ex parte communication.

(o) *Sexual favors.* No city employee or official, in the course of his public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a city agency.

ARTICLE III. - ETHICS COMMISSION

Sec. 30-71. - Established; composition; removal; terms of office; vacancies; chairperson; quorum; compensation; legal counsel.

(a) Established; composition; removal. The city ethics commission is hereby established to administer and implement this chapter. The ethics commission shall consist of five members appointed by the mayor and confirmed by the city council. No member of the commission shall hold any elected or appointed office under the government of the United States or the state, county, or city. Members of the ethics commission may be removed by the mayor, with the concurrence of the city council, for substantial neglect of duty, gross misconduct in office or a violation of this chapter.

(b) Terms of office; vacancies. A member of the ethics commission shall be appointed for a term of office of five years and until his successor has been appointed and has qualified. The members shall be appointed for staggered terms of office, and until their successors have been appointed. When a vacancy occurs in the membership of the ethics commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as the original appointment.

(c) Chairperson; quorum. The ethics commission shall elect a chairperson from among its membership. Three members of the ethics commission shall constitute a quorum and, if a quorum is present, a vacancy on the ethics commission shall not impair the right of the remaining members to exercise all the powers of the ethics commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least three members; otherwise, the ethics commission may delegate authority to the chairperson to act for the ethics commission between meetings.

(d) Compensation. Members of the ethics commission shall receive no compensation.

(e) Legal counsel. The city solicitor shall provide legal counsel to the ethics commission and shall be the legal representative of the ethics commission in connection with its duties hereunder, on a case-by-case basis, or determine that outside counsel is needed and obtain such outside counsel for a particular matter.

Sec. 30-72. - Powers and duties.

(a) The powers and duties of the ethics commission shall be:

(1) Standards of ethical conduct. To recommend to the mayor and council, from time to time, such rules of conduct for public employees and officials as it shall deem appropriate.

(2) Advisory opinions. To issue written advisory opinions, upon the request of any city employee or official, as to the applicability of this chapter to any particular factual situation.

(3) Referrals to solicitor. To refer to the city solicitor for investigation any alleged violation of this chapter and, after notice and hearing, to recommend such disciplinary action as it may deem appropriate to such appropriate official or agency as the ethics commission shall determine, or to take such other disciplinary action as authorized by section 30-73(o) or other provisions of the city Charter or this Code. The ethics commission may dismiss, without reference to the city solicitor, any complaint which the ethics commission determines is frivolous or fails to state a violation.

(4) Report of crimes. To report to the appropriate federal, state or city authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding, whether advisory or disciplinary.

(5) Records. To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of sections 30-74 and 30-73(s).

(6) Procedures. To follow the procedural rules specified in section 30-73 and to establish such other procedural rules as shall be consistent with the rules prescribed therein.

(7) Witnesses, evidence. To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require, by subpoena, the production of books, papers, records or other evidence needed for the performance of the ethics commission's duties or exercise of its powers.

(8) Assistance to city personnel. To provide assistance to any city employee, official or agency in administering the provisions of this chapter.

(9) Provide information. To prepare any necessary reports and studies to advance the purpose of this chapter, to provide any necessary materials explaining the duties of individuals covered by this chapter, and to supply instructions and public information materials to facilitate compliance with, and enforcement of, this chapter.

(10) Request city agencies for assistance. To request appropriate city agencies to provide such professional assistance as it may require in the discharge of its duties.

Sec. 30-73. - Rules of procedure; complaints; hearings; dispositions.

(a) Any person, either personally or on behalf of an organization or governmental body, may file a sworn complaint for the ethics commission with the city clerk. The complaint must be in writing, be signed, and show the address of the person who submitted it. The complaint must state that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true. The complaint must describe the facts that constitute the violation of the standards of ethical conduct in sufficient detail so that the ethics commission and the person who is the subject of the complaint can reasonably be expected to understand the nature of any offense that is being alleged. The commission may request any additional information

deemed necessary to screen the complaint or to render a decision. No complaints shall be accepted or considered which relate to actions that took place more than one year prior to the date of filing. The individual filing the sworn complaint has 60 days from the date that the issue is brought to his or her attention to file a complaint.

(b) After the sworn complaint has been filed, none of the parties or their representatives may communicate on an ex parte basis with any commission members pertaining to the complaint. All communications pertaining to the complaint shall be submitted to the city clerk.

(c) Within seven days of receiving a sworn complaint the city clerk shall send copies of the complaint to each member of the ethics commission, the city solicitor, and the official or officials against whom such complaint has been filed. Hereinafter, the complaining party shall be referred to as the "complainant" and the official against whom a complaint has been lodged shall be referred to as the "respondent."

(d) The commission recognizes that distribution to the public of a sworn complaint prior to screening by the commission as required below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the public release of the complaint is prohibited until the screening process has been completed. The commission shall consult in confidence to screen the complaint within 14 days of receiving the complaint. The commission may immediately dismiss a complaint if:

(1) It has no jurisdiction; or

(2) The alleged violation, if true, would not constitute a violation of the standards of ethical conduct; or

(3) The alleged violation is a minor or de minimis violation; or

(4) The complaint is, on its face, frivolous, groundless, or brought for purposes of harassment; or

(5) The matter has become moot because the person who is the subject of the complaint is no longer an officer, official or employee; or

(6) The respondent had obtained an advisory opinion under section 30-74(c) permitting the conduct; or

(7) The appointing authority of the respondent has already taken action as a result of finding a violation and the commission believes the action was appropriate.

(e) In issues regarding standards of ethical conduct violations, the enforcement process is intended to be corrective rather than remedial unless the violation is a repeated offense. In the event the ethics commission determines a standards of ethical conduct violation has occurred, and it is minor in nature, with the concurrence of the complainant and the subject of the sworn complaint, the commission may dispense with the hearing process and conduct a more informal mediation process in lieu of a hearing.

(f) If the sworn complaint is not dismissed or otherwise resolved pursuant to subsection 30-73(d), the city clerk shall promptly contact the members of the ethics commission, the city solicitor, the complainant, and the respondent in order to ascertain a date and time when a hearing can be convened on such complaint. As soon as a date and time have been agreed upon for a hearing before the ethics commission, the city clerk shall send written notice of such scheduling and a copy of the rules of procedure to the

complainant and to the respondent. No copies of the complaint shall be provided to any other parties before the respondent receives the complaint. The city solicitor shall be the prosecuting attorney in all disciplinary proceedings before the ethics commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of this chapter.

(g) The commission may dismiss a complaint if the complainant does not appear at the hearing and if, in the opinion of the commission, it would be unfair to the respondent not to have the opportunity to examine the complainant.

(h) As promptly as possible after the close of the hearing, the commission shall deliberate to determine if the allegations have been proven by clear and convincing evidence. Only ethics commission members who have been present for the hearing may participate in the deliberations, and any findings and recommendations must be adopted by a majority of the commission. The commission may consider, when making findings and recommendations, the severity of the offense, the presence or absence of any intention to conceal, deceive, or mislead, whether the violation was deliberate, negligent or inadvertent, and whether the incident was isolated or part of a pattern.

(i) Within seven days of the conclusion of deliberations, the commission shall issue an order setting forth its findings and recommendations. In the alternative, the commission where it deems it appropriate, may issue an advisory opinion in lieu of making findings and recommendations.

(j) If the respondent is an employee, the commission may, if it determines corrective action is necessary, notify the city manager or the council president and recommend that action be taken, including discipline.

(k) If the respondent is a city official, the commission may propose actions to the city council that are appropriate to the finding as specified in section 30-73(o).

(l) The commission shall send a written copy of its findings and recommendations to the respondent and the complainant.

(m) Proceeding relating to member. A member of the ethics commission shall be ineligible to participate, as a member of the ethics commission, in any ethics commission proceeding relating to his conduct. A member of the ethics commission who has been found by the ethics commission to have violated this chapter shall be ineligible to serve again as a member of the ethics commission.

(n) Self-disqualification. A member of the ethics commission may disqualify himself from participating in any investigation of the conduct of any person upon submission, in writing and under oath, of an affidavit or disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself.

(o) Actions by ethics commission. With respect to any violation with which a person has been charged and which the ethics commission has determined as proved, the ethics commission may take any one or more of the following actions:

(1) Reprimand. Issue a written reprimand or censure of that person's conduct.

(2) Discipline. With respect to a city employee, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by this chapter, but within the limits of the constitution, the laws of the state, the Charter of the city, and ordinances and existing collective bargaining agreements.

(3) Recommend removal. With respect to an appointed official, recommend that appropriate action be taken to remove the official from the appointed position.

(4) Recommend fine. With respect to an elected city official, recommend that such official be fined in an amount recommended by the ethics commission.

(p) Rights of person charged. In any proceeding before the ethics commission, upon the request of any person charged with a violation of this chapter, such person shall be permitted to inspect, copy or photograph books, papers, documents, photographs or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of his defense.

(q) Exculpatory information. In any proceeding before the ethics commission, if the city solicitor or ethics commission at any time receives any exculpatory information concerning an alleged violation against any person, it shall forthwith make such information available to such person.

(r) Subpoenas. Any person charged with a violation of this chapter may apply to the ethics commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on his behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(s) Confidentiality of proceedings.

(1) City employee. All proceedings before the ethics commission relating to a violation of this chapter by a city employee shall be maintained confidential by the ethics commission, unless:

a. Public disclosure is requested, in writing, by the person charged; or

b. The ethics commission determines after a hearing that a violation has occurred.

(2) City official. All proceedings before the ethics commission relating to a violation of this chapter by a city official, appointed or elected, shall be maintained confidential by the ethics commission, unless:

a. Public disclosure is requested, in writing, by the person charged; or

b. The ethics commission determines after a hearing that a violation has occurred.

(t) Appeals; public inspection. Notwithstanding the confidentiality requirements of subsections (s)(1) and (2) of this section, the ethics commission shall make available for public inspection the record of all proceedings relating to any decision of the ethics commission which is appealed to the superior court and the ethics commission shall

report to appropriate federal, state and/or city authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this chapter.

(u) Confidentiality procedures. The chairperson of the ethics commission shall, with the approval of the ethics commission, establish such procedures as, in the chairperson's judgment, may be necessary to prevent the disclosure of any record of any proceedings or other information received by the ethics commission, except as permitted by this chapter.

Sec. 30-74. - Waivers of restrictions and advisory opinions.

(a) Authority of ethics commission. Notwithstanding the provisions of section 30-20, upon the written request of any city agency or of any individual who is or was a city employee or city official, the ethics commission may grant a waiver to the specific prohibitions contained therein if the ethics commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this chapter or would result in an undue hardship on any employee or official. Any such waiver may be granted only by written decision of the ethics commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision, provided there was a full disclosure to the ethics commission of all material facts necessary for the waiver decision.

(b) Waiver information confidential; exceptions. Any application for a waiver, any proceeding and any decision with respect thereto shall be maintained confidential by the ethics commission, provided that:

(1) Applicant's request. Public disclosure shall be made by the ethics commission upon the written request of the applicant;

(2) Violations. The ethics commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this chapter;

(3) Evidence of crime. The ethics commission shall report to appropriate federal, state and/or city authorities substantial evidence of any criminal violation which may come to its attention; and

(4) Public record. In the event that a waiver is granted, the waiver decision and the record of all proceedings relating thereto shall be open to public inspection.

(c) Advisory opinion authorized. Upon the written request of any city employee or official, the ethics commission may issue an advisory opinion as to the applicability of this chapter to any particular fact or situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion, provided there was a full disclosure to the ethics commission of all material facts necessary for the advisory opinion.

(d) Advisory opinion confidential; exceptions. Any application for an advisory opinion, any proceeding and any decision with respect thereto shall be maintained confidential by the ethics commission, provided that:

(1) Applicant's request. Public disclosure shall be made by the ethics commission upon the written request of the applicant;

(2) Violations. The ethics commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this article; and

(3) Evidence of crime. The ethics commission shall report to appropriate federal, state and/or city authorities substantial evidence of any criminal violation which may come to its attention.

Sec. 30-75. - Judicial review.

In the event that the ethics commission finds that any person has violated any provision of this chapter, said person shall have a right of appeal to the superior court of any such finding, and of any sanctions imposed with respect thereto, by filing a notice of appeal with the superior court within 30 days of the final action by the ethics commission in a particular case. The appeal shall be on the record without a trial de novo. If the court determines that the record is insufficient for its review, it shall remand the case to the ethics commission for further proceedings on the record. The court's review, in the absence of actual fraud, shall be limited to a determination of whether the ethics commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

(Ord. No. 2017-14 , 12-11-2017)

APPENDIX B

INVITATION TO BID AND REQUEST FOR PROPOSAL PROCEDURES

Departments will use the chart below to determine the appropriate sealed bid method. Advance coordination with the Purchaser is required.

Competitive Sealed Bids VS Competitive Sealed Proposals

Activity Description	Competitive Sealed Bids	Competitive Sealed Proposals
Specifications	Specific as to performance/design	End results oriented by Scope of Work. Proposer must develop and provide solution.
Opening	Public – all data available to other bidders and the public	Public – only names of proposers are read; no pricing or other data made available
Evaluation	Based strictly on Technical Specifications – *NO* material changes allowed	Based on *quality* with multi-member Criteria Evaluation Committee assigning weighted values to various parts of each proposal
Discussion	None	Individual discussions with each proposer to determine understanding of proposal requirements
Changes	None	Each proposer can re-submit a Best and Final Offer that might change the solution and the price
Award	Lowest Responsive and Responsible Bidder	*Best Value* Proposal – not necessarily the *lowest price*

I. COMPETITIVE SEALED BIDS

A. Preparing Specifications

- The department requesting the purchases through ~~Central Services~~ Procurement/Inventory will prepare the complete specifications, with the assistance of the Purchaser (if requested) and submit them to ~~Central Services~~ Procurement/Inventory.
- All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a sole source, unless no other manner of description will suffice.
- Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
- It is the general policy of the City to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

B. If only one responsive bid is received in response to an invitation to bid or request for proposal, an award may be made to the single bidder if the Department Director having operational authority over the funds to be expended determines that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-~~solicitiation~~solicitation. Otherwise the bid/proposal may be rejected and new bids or offers may be solicited or the proposed procurement may be cancelled.

C. Bids are to be delivered to ~~the Central Services~~Procurement/Inventory, 710 William Street, Dover, Delaware 19904. They will be opened in the presence of the Purchaser or her/his designee. All bids shall become public record and shall be available for public inspection after it has been determined that there is no proprietary information within the bids. Copies of bids will not be provided to competing vendors. ~~The documents related to the bids and award of the contracts shall be retained for a minimum of three years for unaccepted bids and five years for accepted bids by the Central Service Department. After this period, they may be destroyed by the Central Services Department following the internal guidelines in place by the City Clerk's Office and the State Bureau of Archives Retention Schedule.~~ All purchasing related records must be kept for the period described in the State Bureau of Archives Retention Schedule by Procurement/Inventory. Copies of all evaluation forms and signed contracts/award letters must be forwarded to Procurement/Inventory for retention.

D. For materials, supplies, equipment, and construction work, the department requesting the ~~quotations~~ solicitation will supply ~~Central Services~~ Procurement/Inventory with clear bid specifications. Such specifications should rigorously meet the need of the City of Dover, but not be so all inclusive as to effectively eliminate all but one vendor.

E. The City reserves the right to pre-qualify bidders. This pre-qualification does not prohibit the City from determining, in its sole opinion, the most suitable bid for the product or projects.

F. For purchases $25,000 and greater, vendor references may be checked. This will be done to verify the bidder's ability to perform the contract requirements, the quality of work and the ability to meet obligations in case of non-fulfillment of the contract.

G. The bid notice prepared by ~~Central Services~~ Procurement/Inventory shall provide the specifications or details of how vendors can obtain specifications. The bid notice shall also specify the closing date, time and place for receiving the bids, opening of the bids, where potential bidders may obtain contract documents, and the fee for each contract. A fee in an amount capable of recovering the cost of preparation of the specifications may be charged when specifications are picked up by the vendor.

H. A bid bond or certified check in the amount equivalent to ten percent (10%) of the bid amount should be required with each bid for construction work, materials, supplies, or equipment over $25,000. The requirement for a bid bond may be waived by the ~~Central Services Purchaser~~ Procurement/Inventory Manager and Department Head when the bid is for items being purchased for stock. A bid bond may be required by the requesting department regardless of the dollar value of the bid. Acceptable bid security shall be limited to a bid bond in a form satisfactory to the City underwritten by a company licensed to issue bid bonds in this state or a bank certified check. If a bid does not comply with security requirements, it shall be rejected as being non-responsive. The required bid bond shall be in

substantially the format as identified in APPENDIX C.

The check or bid bond of the bidder to whom the contract is awarded will be forfeited to the City of Dover as liquidated damages in case the contract and performance bond are not executed within fifteen days after receiving official notification of award.

~~J~~I. A performance bond shall be required from the successful bidder for a construction contract. Such a bond shall be for the full amount of the contract. If the contractor fails to provide such a bond or a binder within fifteen days of the award of the contract, the award of the contract or the contract shall be void. The required performance bond shall be in substantially the format as identified in APPENDIX D.

Other insurance or bonds as required by State and/or Federal laws shall be furnished by the contractor. The amounts and the types of the bonds and insurance required shall be disclosed in the bid specifications. The bond shall be released by the City of Dover upon successful completion of the contract and upon a detailed inspection of the contracted work.

~~K~~J. The City of Dover shall have the right to reject any or all bids if deemed to be in the best interest of the City.

~~L~~K. All bids submitted to the City of Dover shall be such as to comply with the applicable local, state and federal requirements.

II. COMPETITIVE SEALED PROPOSALS

Evaluation of proposals must adhere to the following guidelines:

a. Determine what proposals are acceptable and unacceptable
b. A determination that a proposal is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file
c. The offeror shall not be afforded an opportunity to modify its offer

Negotiation with individual offerors

a. The department can negotiate with individual offerors after their proposals are opened.
b. Formalized procedures should be established and consistently applied to each offer
c. Disclosure of one offerors price to another is prohibited
d. The department must send a written request for best and final offers setting forth the date, time, and place for submission of best and final offers
e. The department must inform the offerors that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final

Final Award

a. The contract shall be awarded within 90 days of the closing date
b. The department shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the City
c. The determination shall explain the basis of the award
d. ~~Central Services~~ Procurement/Inventory shall notify each unsuccessful offeror in writing of the award

APPENDIX C

SAMPLE BID BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that we, _____

as Principal, hereinafter called the Principal and *[Bonding Company]* (hereinafter called the "Surety"), a corporation duly authorized to transact business in _____ and having its principal office at _____, are held and firmly bound unto the City of Dover, for the sum of _____Dollars ($_____), for payment of which sum well and truly to be made, the said Principal and said Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for *[Identify project by number and brief description]*.

NOW, THEREFORE, if the City of Dover shall accept the bid of the Principal and the Principal shall enter into a Contract with the City of Dover in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the City of Dover the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the City of Dover may in good faith contract with another party to perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain in full force and effect

Signed and sealed this _____ day of _____, 20 _____.

Witness of Attest: _____(Witness)

By: _____(Principal)

By: _____(Surety)

IMPORTANT: Surety Companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

APPENDIX D

SAMPLE PERFORMANCE BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that *[Here insert the full name and address or legal title of the contractor]* as Principal, hereinafter called Contractor, and *[Bonding Company]* (hereinafter called the "Surety"), a corporation duly authorized to transact business in _____ and having its principal office at _____, are held and firmly bound unto the City of Dover, as Obligee, in the amount of *[Here insert a sum equal to the total amount of the contract price]* Dollars ($_), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated _____, 20 _____, entered into a contract with the City of Dover for *[Describe project and insert project number]* in accordance with drawings and specifications prepared by *[Here insert full name and address or legal title of Architect]* which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension of time made by the City of Dover and its obligation is not affected by any such alteration or extension provided the same is within the scope of the contract. Whenever the Contractor shall be, and is declared by the City of Dover to be in default under the Contract, the City of Dover having performed the City of Dover's obligations thereunder, the Surety may promptly remedy the default or shall promptly:

1) Complete the Contract in accordance with its terms and conditions; or
2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the City of Dover and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and the City of Dover, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the City of

Dover to the Contractor under the Contract and any amendments thereto, less the amount properly paid by the City of Dover to the Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the City of Dover or successors of the City of Dover.

Signed and sealed this _____ day of _____, 20 _____.

Witness of Attest: _____(Witness)

By:_____(Principal)

By: __ _____(Surety)

IMPORTANT: Surety Companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

APPENDIX E

GLOSSARY

"Addendum/Addenda" ~~An addition or supplement to a document, for example, items or information added to a procurement document.~~ A written change, addition, alteration, correction, or revision to a bid, proposal, or contract document. Commonly, the name given to the document used to revise a solicitation. Addendum/addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope change to the project.

"Award" ~~The presentation, after careful consideration, of a purchase agreement or contract to the selected bidder or offeror.~~ The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder or proposer.

"Best and Final Offer" ~~In competitive negotiation, the final proposal submitted after negotiations are completed that contains the vendor's most favorable terms for price and services or products to be delivered.~~A process requested from one proposer or short-listed proposers for their best price(s) for a specific solicitation prior to determining of contract award.

"Best Value" ~~An assessment of the return that can be achieved based on the total Life Cycle Cost of the item; can include an assessment of the functionality of the item; can use cost/benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item.~~ 1) A procurement method that emphasizes value over price. The best value might not be the lowest cost. Generally achieved through the Request for Proposals (RFP) method. 2) An assessment of the return that can be achieved based on the total life cycle cost of the item; may include an analysis of the functionality of the item; can use cost-benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item.

"Bid" ~~An offer submitted by a prospective vendor in response to an invitation to bid issued by a purchasing authority; becomes a contract upon acceptance by the buyer.~~ The response submitted by a bidder to an Invitation to Bid (ITB).

"Bid Bond" ~~An insurance agreement, accompanied by a monetary commitment, by which a third party (the Surety) accepts liability and guarantees that the bidder will not withdraw the bid, the bidder will furnish bonds as required, and if the contract is awarded to the bonded (insured) bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.~~ An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

"Bid Protest" ~~A formal complaint made against the methods employed or decisions made by a procurement authority in the process leading to the award of a contract.~~ A written objection made against the selection methods employed or decisions made by a public agency leading to the award of a contract or purchase.

"Brand Name or ~~Equal Specification~~ Equivalent" ~~A specification using one or more manufacturers' brand names, with identifying model numbers, to describe the standards of quality, performance or other characteristics needed to meet the requirements of a solicitation, and which invites bids for equivalent products from any manufacturer.~~ One or more manufacturers' brand names, with identifying model numbers, used in a specification to invoke certain quality, performance, and other salient characteristics needed to meet the solicitation requirements.

"Brand Name Specification" A specification using one or more manufacturers' brand names, with identifying model numbers, to describe the acceptable items; all other items will be excluded.

"Buyer" ~~1: A purchaser can refer to the buying agency or government. 2: A worker in a procurement office who is appointed to purchase a specific range of goods or services on a routine basis, usually under the supervision of a section head or purchasing manager.~~ A purchaser or procurer of products and services. This title may also refer to an individual who is responsible for the procurement activities of an entity, also commonly referred to as a purchasing or procurement agent.

"Capital Asset" ~~An asset with a life of more than one year, either tangible or intangible, with a value above a certain minimum amount set by the jurisdiction.~~ An asset with a life cycle of more than one year with a value of more than a certain prescribed limit set by accounting standards or by governmental policy. For the City, this amount is $4,999.

"Certain Professional Services" means those services within the scope of the practice of architecture, professional engineering, professional land surveying, landscape architecture and geology.

"Change Order" ~~A written alteration to a contract or purchase order, signed by the purchasing authority.~~ A written alteration that is issued to modify or amend a contract or purchase order. A bilateral (agreed to by all parties) or unilateral (government orders a contract change without the consent of the contractor) request that directs the contractor to make changes to the contracted scope of work or specifications. In reference to construction contracts, it relates primarily to changes caused by unanticipated conditions encountered during construction not covered by the drawings, plans, or specifications of the project.

"Clarification" A communication with a~~n offeror~~ proposer for the sole purpose of eliminating minor irregularities or apparent clerical mistakes in a proposal; may be initiated by either ~~offeror~~ proposer or purchaser; does not give the ~~offeror~~ proposer an opportunity to revise or modify its proposal, except to the extent the correction of apparent clerical mistakes results in revision.

"Combination Specification" Has the features of both design specifications and performance specifications.

"Commodity" ~~Any moveable, tangible article of trade or commerce.~~ A marketable item produced to fulfill a need or want, and references both goods and services.

"Commodity Code" A system of words or numbers designed to identify and list commodities or

services by classes or sub-classes. For the City, the commodity code is the first three numbers of stock code and the sub-commodity is the second three numbers of the stock code. A list can be printed from HTE.

"Competitive Sealed Bidding" ~~Preferred m~~Method of acquiring goods, services, and construction for public use in which the award is made to the lowest responsive and responsible bidder, based solely on the response to the criteria set forth in the ~~i~~Invitation to ~~b~~Bid (ITB); does not include discussions or negotiations with bidders. ~~Also called formal bid and formal advertised bid.~~

"Contract" 1~~:~~) A legally binding promise, enforceable by law. 2~~:~~) An agreement between parties, with binding legal and moral force, usually exchanging goods or services for money or other consideration. ~~3: All types of agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction.~~ 3) An obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and definiteness.

"Contract Modification" Any written alteration in specifications, delivery point, ~~rate~~ frequency of delivery, period of performance, price, quantity, or other provision of any contract, accomplished by mutual ~~action~~ agreement of parties to the contract.

"Depreciation" ~~1: A decrease in value because of use, time, deterioration, inadequacy or obsolescence. 2: An accounting recognition of loss of value of a fixed asset.~~ 1) An accounting term that denotes a loss or decrease in the acquired value over a specified period of time. Usually applies to a loss of value of a fixed asset (capital equipment). 2) The systematic transfer of the cost of a capital expenditure (an asset on the balance sheet) to expense (on the income statement). 3) To diminish in price or value. 4) The consumption of capital in the production process. 5) The wearing out of plant and equipment over a specified time.

"Designee" A duly authorized representative.

"Design Specification" ~~A specification establishing the characteristics an item must possess, including enough detail to show how it is to be manufactured.~~ A type of specification that establishes the characteristics an item must possess, including details indicating how it is to be manufactured. May include engineering plans or drawings, and blueprints. It states to the contractor in prescriptive terms what the contractor must provide to the buyer.

"Economic Order Quantity (EOQ)" ~~A quantity providing the lowest acquisition, inventory costs at a minimum cost per unit.~~ An inventory calculation used to determine stock-level reorder point. The calculation is based on costs of acquisition, storage, handling, and inventory investment to determine the most cost-effective time and quantity to reorder.

"Emergency Purchase" ~~A purchase made to alleviate a situation in which there is a threat to health, welfare, or safety under certain conditions defined as an emergency by the jurisdiction, that does not allow time for normal, competitive purchasing procedures.~~A purchase made due to

an unexpected and urgent request where health and safety or the conservation of public resources is at risk. Usually formal competitive bidding procedures are waived.

"F.O.B. Destination" ~~Title changes hands from vendor to purchaser at the destination of the shipment; Vendor owns goods in transit and files any claims. Payment of freight charges is determined by contract terms.~~Title changes hands from the supplier to the public entity at the destination of the shipment when the public entity signs for the goods; the supplier owns the goods in transit, assumes responsibility for carrier selection, and files any claims for damages incurred during this period. It does not address the responsibility for the cost of transportation (freight charges), which must be specified with the inclusion of additional language.

"Functional Specification" A specification setting forth the results required from the supply or service.

"Indemnify" 1: To protect against hurt or loss, to exempt from incurred penalties or liabilities. 2: To compensate or pay for damage.

"Informal Bid/Proposal" ~~A competitive bid or price quotation for supplies or services that is conveyed by letter, telephone, or other means and does not require a sealed bid, public opening, or public reading of the bids. See request for quotation.~~A competitive bid, price quotation, or proposal for supplies or services that is conveyed by a letter, fax, e-mail, or other manner that does not require a formal sealed bid or proposal, public opening, or other formalities. Generally relegated to requirements that may be considered low value or fall under a stipulated price/cost threshold.

"Invitation to Bid" A formal request to prospective vendors soliciting price quotations or bids; contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.

"May" Denotes the permissive in a contract clause or specification.

"Non-responsible ~~Bid~~" ~~A bid from a vendor who does not have the capability to perform fully the contract requirements, or who does not have the integrity and reliability to assure performance.~~ A contractor, business entity, or individual that responds to a solicitation that does not have the ability or capability to fully perform the requirements of the solicitation. A business entity or individual who does not possess the integrity and reliability to assure contractual performance.

"Non-responsive ~~Bid~~" A bid that does not conform to the mandatory or essential requirements ~~of~~ contained in the invitation to bid.

"Open Market Purchase" A purchase, usually of a limited monetary amount, from any available source.

"Performance Bond" ~~A bond executed after award by a successful bidder, to protect the buyer from loss due to the bidder's inability to complete the contract as agreed; Secures the fulfillment of all contract requirements.~~ An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the

contract as agreed. A risk mechanism that secures the fulfillment of all contract requirements. May be referred to as a completion bond.

"Performance Specification" ~~A specification setting forth the capabilities and performance characteristics the article must satisfy.~~A type of specification that describes the desired outcome or intended use of a commodity and how the commodity will perform (e.g., number of items, distance to travel, time required).

"Pre-~~b~~Bid/Pre-Proposal Conference (Meeting)" ~~A meeting held with prospective bidders prior to solicitation of bids, to clarify any ambiguities, answer bidder questions, and ensure all bidders have a common basis of understanding regarding the supplies or services required.~~ A meeting held by the buyer with potential bidders/proposers prior to the opening of the solicitation for the purpose of answering questions, clarifying any ambiguities, and responding to general issues to establish a common basis for understanding all of the requirements of the solicitation. May result in the issuance of an addendum to all potential providers. In certain situations, a mandatory conference may be advisable.

~~**"Pre-proposal Conference"** Same as a pre-bid conference, but for competitive proposals.~~

"Prequalification (of Bidder~~s~~/Proposer)" The screening of potential ~~vendors~~ suppliers/contractors in which such factors as financial capability, reputation, and management are considered to develop a list of qualified ~~vendors~~ businesses who may then be allowed to submit bids/proposals.

"Procurement" ~~1.~~ Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. ~~2.~~ The combined functions of purchasing, inventory control, traffic and transportation, receiving, ~~receiving~~ inspection, storekeeping, and salvage and disposal operations.

"Professional Services" Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance (i.e. architectural & engineering services).

"Public Works and Utilities Contract" means any contract for the construction, reconstruction, alteration or repair of any public building, road, street, highway, utility system or other public improvement, the cost of which will be paid with public funds.

"Reasonable Cost" A cost that by its nature or amount does not exceed what would normally be incurred by an ordinarily prudent person in the conduct of competitive business. Often used in the context of "fair and reasonable" cost/price.

"Request for Proposal (RFP)" ~~All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals.~~ The document used to solicit proposals from potential providers (proposers) for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step

process.

"Request for Quotation (RFQ)" ~~An informal solicitation or request for information, where oral or written quotes are obtained from vendors, without formal advertising or receipt of sealed bids. Used only where statutes do not require formal sealed bids, such as small or emergency purchases, but price competition is desired.~~ The document used to solicit proposals from potential providers (proposers) for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step process.

"Responsible Bidder/Proposer ~~or Offeror~~" ~~A bidder or offeror who has the capability in all respects to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.~~ A business entity or individual who has the integrity and reliability as well as the financial and technical capacity to perform the requirements of the solicitation and subsequent contract.

"Responsive ~~Bidder or Offeror~~Bid/Proposal" ~~A bidder or offeror who has submitted a bid which conforms in all material respects to the requirements stated in the Invitation to Bid.~~ A bid or proposal that fully conforms in all material respects to the Invitation to Bid (ITB)/Request for Proposals (RFP) and all of its requirements, including all form and substance.

"Restrictive Specification" ~~Specification that unnecessarily limits competition by eliminating items capable of satisfactorily meeting actual needs, often by requiring features which exceed the minimum acceptable characteristics required for satisfactory performance.~~ Specifications that unnecessarily exclude a potential bidder or proposer from competing for a procurement. Precludes full and open competition. Specifications that are written around a specific product or service.

"Shall" Denotes an imperative in contract clauses or specifications.

"Small Purchase" Any procurement not exceeding a given upper monetary limit, as established by law or regulation~~.~~, executive order, etc. Usually applies to purchases of small dollar amounts under a certain monetary threshold.

"Single Source Procurement" A contract for the purchase of goods and services entered after soliciting and negotiating only with one source, usually because of the technology required or uniqueness of the service provided.

"Sole Source Procurement" ~~Only one vendor/manufacturer possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a time, or services from a public utility.~~ A non-competitive method of procurement used when only one supplier possesses the unique ability or capability to meet the particular requirements of the entity or because only one supplier is practicably available. The entity may require a written justification from the end user explaining why only this supplier can fulfill the requirement.

"Specification" ~~A description of the physical or functional characteristics, or the nature of a~~

~~supply, service, or construction item; the requirements to be satisfied by a product, material, or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied.~~ A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract. See Brand Name Specification, Brand Name or Equal Specification, Combination Specification, Design Specification, Performance Specification, Restrictive Specification, Standard Specification.

"Standard Specification" A specification that is to be used for all or most purchases of an item; describes all required physical and functional characteristics of a good, service or construction.

"Statement of Work" ~~A detailed description of the work which the purchasing jurisdiction wants the contractor to perform.~~A written description in the contract detailing performance expectations and deliverables between the contracting parties. After a supplier has been selected, the statement of work becomes the basis for the contract and must provide sufficient information to meet the entity's needs and achieve successful outcomes, describe and define the expectations of the parties, set price and payment schedules, and mitigate or avoid disputes.

"Term Contract" A type of contract in which a source of supply is established for a specified period for specified services or supplies; Usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

Source of Definitions: Dictionary of Purchasing Terms published by the National Institute of Governmental Purchasing.

APPENDIX F

CITY OF DOVER QUOTATION WORKSHEET

(To be used for purchases between $5,000.00 and $24,999.99)

Department: _____ Division: _____

Department Contact (Name & number): _____

Item/Service: _____

Estimated Dollar Value: _____

Account Code: _____ Project Code: _____

Vendors (At least three vendors must be used. Include at least one minority or women owned vendor, if available. Use of more than one minority or women owned vendor is encouraged):

1. Go to ~~https://gss.omb.delaware.gov/osd/index.shtml~~ https://business.delaware.gov/osd/.
2. Click on "Directory of Certified Businesses" button.
3. ~~Select "Minority Business Enterprise" and/or "Women Business Enterprise" links.~~
4. ~~4.~~3. Search by keyword i.e. Electrician, Construction, Furniture
   List keyword(s) used: _____
5. ~~5.~~4. Each company displayed will have its assigned NAICS code listed.
   List NAICS Code(s) used: _____
6. ~~6.~~5. Refine search by NAICS Code if necessary.
6. Were Vendors Found: YES NO If so, how many: _____
7. If no vendors were found, please explain: _____
   _____

Vendor 1: _____Minority ☐

Vendor 2: _____Minority ☐

Vendor 3: _____Minority ☐

If more than three vendors are used, list them on the reverse of this form.

Date sent out for quotes: _____

Date due back: _____

Date of award: _____

Vendor receiving the award: _____

Was the 3% minority vendor preference applied in the evaluation? YES NO
Was this a minority vendor? YES NO

Total dollar amount of purchase or estimated total contract value: $_____

Purchase Order produced: YES NO PO Number: _____

Additional vendors used for this purchase

Vendor 4: _____Minority ☐

Vendor 5: _____Minority ☐

Vendor 6: _____Minority ☐

Vendor 7: _____Minority ☐

Vendor 8: _____Minority ☐

Vendor 9: _____Minority ☐

Vendor 10: _____Minority ☐

~~Send completed form to the Procurement Office in Central Services.~~Attach completed form to requisition in Tyler/Munis.

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

That Chapter 46 - Fire Prevention and Protection, Article II - Fire Department, Division 1 - Generally of the Dover Code be amended by inserting the text indicated in blue and deleting the text indicated in red, strikeout as follows:

ARTICLE II. - FIRE DEPARTMENT

DIVISION 1. - GENERALLY

Sec. 46-41. - Created; purpose.

There is hereby created a city fire department, which shall protect and prevent against the hazard of fire. Robbins Hose Company No. 1, Inc., is hereby recognized and designated as the fire company of the city in accordance with the city Charter and this Code.

(Code 1968, § 2-45; Code 1981, § 7-16; Ord. of 4-9-1990)

Sec. 46-42. - Control; board of directors.

~~(a) *City council.* The city council shall have general control of the fire department and shall enact rules and regulations to govern its conduct.~~

~~(b) *Board of directors.* The fire department shall have a board of directors or other governing body, which shall control and prescribe rules for the maintenance and use of all fire department apparatus in its custody, provided such rules shall not be in conflict with any provision of this Code.~~

The Fire Chief and President of the Fire Department will be the liaisons from the Fire Department to the City of Dover. Any rules and regulations will be negotiated between the Fire Department and City of Dover and approved by the Fire Department membership and City Council.

(Code 1968, § 2-46; Code 1981, § 7-17)

Sec. 46-43. - Semiannual inspections.

In the months of April and October of each year, the city manager shall inspect the fire department with the Fire Chief and President, make inquiries as to the standing and efficiency of the fire companies, investigate the capabilities of the officers of the fire department and the operators of fire department apparatus, and make a report to the city council, in writing, stating the results of his inspection and investigation and making those recommendations which he may deem proper.

(Code 1968, § 2-47; Code 1981, § 7-18)

Draft

~~**Sec. 46-44. - Right to use of fire apparatus in emergency.**~~

~~(a) *Duty of fire chief.* Upon the request of the city manager or his authorized agent, the fire chief shall call to his use and assistance any apparatus in the fire department which is maintained, in whole or in part, by the city in any fire-related emergency arising within the city.~~

~~(b) *Return of apparatus.* The apparatus shall not be kept away from the firehouse where it is usually kept longer than is necessary to abate the emergency.~~

(Code 1968, § 2-48; Code 1981, § 7-19)

~~**Sec. 46-45. - Failure to answer alarms, orders and perform duties orderly.**~~

~~(a) *Duties of companies and members.* It shall be unlawful for any active fire company in the fire department not to respond to all fire alarms unless excused by the fire chief. It shall be unlawful for any active member or officer of any fire company in the fire department to refuse to obey the orders of a superior officer or to engage in riotous or disorderly conduct while required to perform lawful duties.~~

~~(b) *Penalties.* Violations of this section shall be punishable as provided in Appendix F—Fees and Fines or by suspension from the fire department by the fire chief, or both. Violation of this section by the fire chief shall be punishable as provided in Appendix F—Fees and Fines or by suspension from the fire department by the city council, or both.~~

(Code 1968, § 2-65; Code 1981, § 7-20; Ord. No. 2009-09, 6-22-2009)

~~**Sec. 46-46. - Appeal of suspension.**~~

~~Upon suspension from the fire department, the suspended member, officer or fire company shall have the right to appeal to the city council, which, upon giving notice and an opportunity to be heard to those persons concerned, shall confirm the suspension or reinstate the member, officer or fire company.~~

(Code 1968, § 2-66; Code 1981, § 7-21)

Sec. ~~46-47~~ 46-44. - Interference with discharge of duty.

It shall be unlawful for any unauthorized person to break through the established fire barriers at a fire, to refuse to move from within the fire barriers or to, in any manner, interfere with or hinder any member of the fire department in the discharge of his duties.

(Code 1968, § 2-67; Code 1981, § 7-22)

Secs. 46-~~48~~ 45—46-70. - Reserved.

Draft

That Chapter 46 - Fire Prevention and Protection, Article II - Fire Department, Division 2 - Officers of the Dover Code be amended by inserting the text indicated in blue and deleting the text indicated in red, strikeout as follows:

DIVISION 2. - OFFICERS

Sec. 46-71. - Generally.

The officers of the fire department, from highest rank to lowest rank, shall respectively be fire chief, deputy fire chief, four assistant fire chiefs, and two fire captains.

(Code 1968, § 2-50; Ord. of 10-25-1976; Code 1981, § 7-31; Ord. of 6-14-1993)

Sec. 46-72. - Annual appointment by council.

The fire chief, the deputy fire chief, the assistant fire chiefs and the fire captains shall be appointed ~~each~~ at the first regular city council meeting in December by the city council. The appointments shall be made from the duly elected nominees of each fire company as provided in section 46-77. If, however, the city council deems the nominees or any one of them unsatisfactory, it may refuse to appoint those nominees and instead may order a special election in accordance with the provisions of this article to choose another nominee or slate of nominees.

(Code 1968, § 2-54; Ord. of 10-25-1976; Code 1981, § 7-32; Ord. of 6-14-1993)

Sec. 46-73. - Qualifications.

(a) *Nomination.* No person shall be considered a candidate for nominee election as fire chief, deputy fire chief, fire captain or assistant fire chief unless he shall have been regularly nominated for that office and his name shall appear upon the official ballot for that office at the nominee election.

(b) *Prerequisites; exception.* The fire chief, deputy fire chief, assistant fire chiefs, and fire captains shall ~~be at least 25 years of age, residents of the Robbins Hose Company Fire District, as defined by the county firefighter's association, and shall be active members for at least three years, in good standing, in the fire department. The three-year membership is waived, however, if the nominee's fire company has not been in existence for that long a period~~ follow the Constitution and By Laws of the Robbins Hose Company.

(Code 1968, § 2-55; Ord. of 10-25-1976; Code 1981, § 7-33; Ord. of 6-14-1993)

Sec. 46-74. - Terms.

(a) *Calendar year.* The fire department officers shall serve from ~~January 1 immediately following their appointment until the following December 31~~ the Tuesday after the first City Council meeting in December until the following Tuesday after the first City Council meeting in December, except that an appointee to fill a vacancy shall assume the post upon qualification.

(b) *End of service.* If a successor has not been elected and qualified for office at the expiration of an officer's term, then the incumbent shall serve until his successor is duly elected and qualified.

(Code 1968, § 2-56; Code 1981, § 7-34)

Sec. 46-75. - Date of election of nominees.

The election of nominees for fire department officers shall be held each year on the third Monday in November.

(Code 1968, § 2-57; Code 1981, § 7-35)

Sec. 46-76. - Notice of election of nominees.

The ~~city clerk~~ Fire Department Secretary shall notify the various fire companies of the election of nominees for fire department officers at least one week before the nominee election is to be held, stating the time and place of the election. A copy of the notice shall at once be placed on the bulletin boards of the respective firehouses by the secretaries of the fire companies.

(Code 1968, § 2-58; Code 1981, § 7-36)

Sec. 46-77. - Election and voting regulations for nominees.

Each fire company shall conform to the following regulations for the conduct of nominee elections for fire department officers:

(1) *Membership list.* At least ~~two days~~ one week before the nominee election, ~~each fire company shall send~~ the fire department secretary and fire recorder shall post a list of its active members in good standing ~~to the city council~~. These lists shall be certified by the president and secretary of each fire company, shall be under seal and shall be used by the judges of the nominee election to determine qualified voters.

(2) *Where and how election held.* The nominee election shall take place at a firehouse designated by the ~~city council~~ fire department president and shall be conducted by three judges appointed by the ~~city council~~ fire department president for that purpose.

(3) *Eligible voters.* The nominee election judges shall not permit anyone to vote whose name is not on one of the lists mentioned in subsection (1) of this section. If a member's name appears on the lists, but it is proven to the satisfaction of the judges that he does not meet the requirements of active membership, then that person shall cast a challenged ballot. The term "active membership," for the purposes of this section, shall mean a member who has responded to at least 125 of the alarms, by way of attendance, during the year immediately preceding the certification of the voting list and is in the category of active and life membership within the fire department. This requirement is waived for any member who was on active duty in the military service during any portion of that year and who is otherwise in good standing with his individual fire company.

Draft

(4) *Secret ballot.* The nominee election shall be by secret ballot and each voter shall have only one vote for each of the open nominee positions.

(5) *When polls open.* Polls shall open at 7:00 p.m. and shall close at ~~9:00~~ 8:00 p.m.

(6) *Absentee voting.* ~~Absentee voting shall be permitted in accordance with the procedure adopted for absentee voting at regular municipal elections contained in chapter 34, article III~~ Follows the Constitution and By Laws of the Robbins Hose Company.

(Code 1968, § 2-59; Code 1981, § 7-37; Ord. of 10-12-1982; Ord. of 8-14-2000; Ord. No. 2017-07, 6-26-2017)

Sec. 46-78. - Certification of results of nominee election.

Immediately after the close of the nominee election polls, the election judges shall tally and certify the results of the nominee election. The ballot box, together with the ballots, judges' certification and tally sheet, shall be sealed and delivered within 24 hours, to the city clerk. ~~The city manager, or in his absence, the city clerk,~~ The city clerk shall submit the results of the election, together with the accompanying materials, to the city council at its next regular meeting following the election.

(Code 1968, § 2-60; Code 1981, § 7-38)

Sec. 46-79. - Special nominee elections.

If the city council shall order a special nominee election, to be held as provided in section 46-72, in order to replace a person the city council refused to appoint, that special nominee election shall be held at the time fixed by the ~~city council~~ Fire Department President and in the same manner as the regular nominee elections are held. At the special election, the person whom the city council refused to appoint shall not be voted for and any ballot cast for him shall not be counted.

(Code 1968, § 2-62; Code 1981, § 7-39)

Sec. 46-80. - No contestants.

If there are no contestants available for any one of the fire department offices and this fact is certified by the president and secretary of each of the fire companies, then the city council shall appoint those officers without holding the nominee election.

(Code 1968, § 2-62; Code 1981, § 7-40)

Sec. 46-81. - Election to fill vacancy.

Whenever the office of fire chief, deputy fire chief, fire captain or assistant fire chief shall become vacant through the resignation, death, absence or disability of any person holding that office, the vacancy shall be filled by an election held by the qualified fire company members affected by the loss of command. The election shall be held in the same manner and form as other elections of the fire department, in accordance with the provisions of this division.

(Code 1968, § 2-63; Ord. of 10-25-1976; Code 1981, § 7-41)

Draft

Sec. 46-82. - Powers and duties of fire chief.

The fire chief shall:

(1) *Control at fires.* Have full control of the fire department at all fires.

(2) *Assignment of duties.* Assign to each fire company their respective duties, when necessary.

~~(3) *Dismissal.* Dismiss firefighters when their services are no longer required.~~

(~~4~~ 3) *Implement rules.* Implement those rules ~~which the city council may approve~~ for the regulation and management of the fire companies at fires, and for going to and returning from fires.

(~~5~~ 4) *Attend fires.* ~~Be present at all fires and, at those times, wear a suitable badge or dress whereby his office may be readily recognized.~~

(~~6~~ 5) *Summon police.* Have the authority to summon the police to maintain order and protect property during the continuance of fires.

(~~7~~ 6) *Barriers.* Cause barriers to be placed across the streets and sidewalks to prevent accidents and interference with the workings of the fire department and to admit no one within the enclosed limits, except equipped firefighters, the police and, in his discretion, those persons immediately interested in the property.

(~~8~~ 7) *Demolish buildings.* Have the power, when it is, in his opinion, absolutely necessary to stop the spread of a conflagration, to cause to be pulled down or blown up those buildings that shall be required to be removed.

(~~9~~ 8) *Enter private property.* Have the power to cause those members of the fire department that he shall deem proper, with the apparatus that shall be necessary, to enter upon any private property for the purpose of extinguishing a fire. He may cause those fences or other obstructions to be removed that he may deem necessary.

(Code 1968, § 2-51; Code 1981, § 7-42)

Sec. 46-83. - Submission of annual report to city council.

The fire chief and president shall present the city council with a report at its annual meeting, which shall state the ~~number of fires occurring during the past year, their causes and the monetary losses resulting as nearly as can be ascertained, the number of active members in the fire department, the number of feet of hose and the conditions of the apparatus and hose of each fire company~~ fire suppression and administrative activities of the department.

(Code 1968, § 2-33; Code 1981, § 7-43)

Sec. 46-84. - Powers and duties of deputy fire chief, assistant chiefs and fire captains.

(a) In the absence of the fire chief, the deputy fire chief, and the assistant fire chiefs, a fire captain, who shall be predetermined by the fire chief, shall assume the powers and duties and be obeyed accordingly.

(b) In the absence of the fire chief, the deputy fire chief, and the assistant fire chiefs, the fire captain shall then assume the powers and duties and be obeyed accordingly.

(c) It shall be the duty of the deputy fire chief, the assistant fire chiefs, and the fire captain to be present at all fires and to assist the fire chief in the discharge of the duties of his office.

(Code 1968, § 2-52; Ord. of 10-25-1976; Code 1981, § 7-44; Ord. of 6-14-1993)

~~**Sec. 46-85. - Violation of election regulations.**~~

~~Any fire department member who shall violate any of the election regulations of this division shall be reported to the city council for appropriate action. If, upon investigation, the fire department member is declared guilty of violating the same, he may be suspended from membership in his fire company.~~

(Code 1968, § 2-64; Code 1981, § 7-45)

Secs. 46-~~86~~ 85—46-120. - Reserved.

ADOPTED: *

S:\ORDINANCES\2020\DRAFT\ORDINANCE #2020-11- CH 46 FIRE PREVENTION AND PROTECTION\ORDINANCE #2020-11 - CH 46 FIRE PREVENTION AND PROTECTION.wpd

Ssynopsis

The amendments will align the Dover Code with the Constitution and By Laws of the Robbins Hose Company.

(SPONSORS: HARE, LINDELL, NEIL AND TAYLOR)

Actions History

09/15/2020 - Introduction - Council Committee of the Whole/Legislative, Finance, and Administration Committee

Draft

Red is new

Blue is in the Robbins Hose Company Constitution and by Laws. This is for a reference only to show the requirements (will not be part of the City Code)

Green is a currently proposed Constitution and By Law amendment

- **ARTICLE II. - FIRE DEPARTMENT**
-
- **DIVISION 1. – GENERALLY**
-
- ## Sec. 46-41. - Created; purpose.
-
- There is hereby created a city fire department, which shall protect and prevent against the hazard of fire. Robbins Hose Company No. 1, Inc., is hereby recognized and designated as the fire company of the city in accordance with the city Charter and this Code.
-
- (Code 1968, § 2-45; Code 1981, § 7-16; Ord. of 4-9-1990)
-
- ## Sec. 46-42. - Control; board of directors.

(a)

~~*City council.* The city council shall have general control of the fire department and shall enact rules and regulations to govern its conduct.~~

~~(b)~~

~~*Board of directors.* The fire department shall have a board of directors or other governing body, which shall control and prescribe rules for the maintenance and use of all fire department apparatus in its custody, provided such rules shall not be in conflict with any provision of this Code.~~

The Fire Chief and President of the Fire Department will be the liaisons from the Fire Department to the City of Dover. Any rules and regulations will be negotiated between the Fire Department and City of Dover and approved by the Fire Department membership and City Council.

- (Code 1968, § 2-46; Code 1981, § 7-17)
-
- ## Sec. 46-43. - Semiannual inspections.
-
- In the months of April and October of each year, the city manager shall inspect the fire department with the Fire Chief and President, make inquiries as to the standing and efficiency of the fire companies, investigate the capabilities of the officers of the fire department and the operators of fire department apparatus, and make a report to the city council, in writing, stating the results of his inspection and investigation and making those recommendations which he may deem proper.

- (Code 1968, § 2-47; Code 1981, § 7-18)

- **~~Sec. 46-44. - Right to use of fire apparatus in emergency.~~**

- ~~(a)~~

- ~~*Duty of fire chief.* Upon the request of the city manager or his authorized agent, the fire chief shall call to his use and assistance any apparatus in the fire department which is maintained, in whole or in part, by the city in any fire-related emergency arising within the city.~~

- ~~(b)~~

- ~~*Return of apparatus.* The apparatus shall not be kept away from the firehouse where it is usually kept longer than is necessary to abate the emergency.~~

- ~~(Code 1968, § 2-48; Code 1981, § 7-19)~~

- **~~Sec. 46-45. - Failure to answer alarms, orders and perform duties orderly.~~**

- ~~(a)~~

- ~~*Duties of companies and members.* It shall be unlawful for any active fire company in the fire department not to respond to all fire alarms unless excused by the fire chief. It shall be unlawful for any active member or officer of any fire company in the fire department to refuse to obey the orders of a superior officer or to engage in riotous or disorderly conduct while required to perform lawful duties.~~

- ~~(b)~~

- ~~*Penalties.* Violations of this section shall be punishable as provided in Appendix F—Fees and Fines or by suspension from the fire department by the fire chief, or both. Violation of this section by the fire chief shall be punishable as provided in Appendix F—Fees and Fines or by suspension from the fire department by the city council, or both.~~

- ~~(Code 1968, § 2-65; Code 1981, § 7-20; Ord. No. 2009-09, 6-22-2009)~~

~~Sec. 46-46. - Appeal of suspension.~~

~~Upon suspension from the fire department, the suspended member, officer or fire company shall have the right to appeal to the city council, which, upon giving notice and an opportunity to be heard to those persons concerned, shall confirm the suspension or reinstate the member, officer or fire company.~~

~~(Code 1968, § 2-66; Code 1981, § 7-21)~~

- **Sec. 46-47. - Interference with discharge of duty.**

- It shall be unlawful for any unauthorized person to break through the established fire barriers at a fire, to refuse to move from within the fire barriers or to, in any manner, interfere with or hinder any member of the fire department in the discharge of his duties.

- (Code 1968, § 2-67; Code 1981, § 7-22)

- **Secs. 46-48—46-70. - Reserved.**

DIVISION 2. - OFFICERS

- **Sec. 46-71. - Generally.**
-
- The officers of the fire department, from highest rank to lowest rank, shall respectively be fire chief, deputy fire chief, four assistant fire chiefs, and two fire captains.
-
- (Code 1968, § 2-50; Ord. of 10-25-1976; Code 1981, § 7-31; Ord. of 6-14-1993)
- **Sec. 46-72. - Annual appointment by council.**
- The fire chief, the deputy fire chief, the assistant fire chiefs and the fire captains shall be appointed each at the first regular city council meeting in December by the city council. The appointments shall be made from the duly elected nominees of each fire company as provided in section 46-77. If, however, the city council deems the nominees or any one of them unsatisfactory, it may refuse to appoint those nominees and instead may order a special election in accordance with the provisions of this article to choose another nominee or slate of nominees.
- (Code 1968, § 2-54; Ord. of 10-25-1976; Code 1981, § 7-32; Ord. of 6-14-1993)
- **Sec. 46-73. - Qualifications.**
- (a)
- *Nomination.* No person shall be considered a candidate for nominee election as fire chief, deputy fire chief, fire captain or assistant fire chief unless he shall have been regularly nominated for that office and his name shall appear upon the official ballot for that office at the nominee election.
- (b)
- *Prerequisites; exception.* The fire chief, deputy fire chief, assistant fire chiefs, and fire captains shall ~~be at least 25 years of age, residents of the Robbins Hose Company Fire District, as defined by the county firefighter's association, and shall be active members for at least three years, in good standing, in the fire department. The three-year membership is waived, however, if the nominee's fire company has not been in existence for that long a period.~~

Follow the Constitution and By Laws of the Robbins Hose Company.

Residency: A Robbins Hose Constitution and By Law change will dictate a 7 mile radius from the center of the fire district (gis map provided).

FYI, the following is in the Robbins Hose Co No 1 Inc Constitution and By Laws:

Membership Categories

_____ Cadet, must be at least 13 years old and not more than 15 years old, must attend 21 hours of in house training each year

_____ Junior, must be at least 15 years old and not more than 18 years old, must attend at least 125 calls each year, attend at least 21 hours of in house training each year, and attend at least 4 meetings each year.

_____ Probation must be at least 18 years old, must attend at least 125 calls each year, attend at least 21 hours of in house training each year, and attend at least 4 meetings each year. Probation is 1 year and then they become an Active member. Active members must attend 125 fires, attend 21 hours in house training, attend 4 meetings, and hold and contribute to a committee for an entire year, each year

_____ Ride Along, must be at least 18 years old, have a letter from your current fire company, provide a copy of your training requirements (The applicant must provide proof that they have completed the following Delaware State Fire School classes at a minimum: Basic Firefighting Skills, Vehicle Rescue, Hazardous Materials Response Skills, and Structural Firefighting, (Pro Board FF2) or equivalent course

DFD firefighter requirements effective Nov 1, 2023

In order to maintain a minimum training standard, the following classifications are being established. Each classification has a minimum amount of listed training classes which shall be successfully completed prior to earning the classification status. All members are encouraged to attend additional training classes yearly.

Dover Fire Department Firefighter I:
completed orientation and evaluated by fire chief or designee

Dover Fire Department Firefighter II:
Dover Fire Department Firefighter I and
CPR and AED
ICS 100 and 200
Basic Firefighting Skills
Vehicle Rescue
Hazardous Materials Response Skills
Structural Firefighting Skills
Elevator Rescue
Or Pro Board Firefighter II
or equivalent as determined by the DSFS (letter needed from the DSFS)

Dover Fire Department Firefighter III:
Dover Fire Department Firefighter II and
ICS 700 and 800
Crew Leader
Rapid Intervention Team Basic
Firefighter Self Survival

Dover Fire Department Fire Officer:

Dover Fire Department Firefighter III and
DE Fire Officer I
or Pro Board Fire Officer I
Or equivalent as determined by the DSFS (letter needed from the DSFS)

Drivers:
Emergency Vehicle Operations
Driver/Operator

DFD Officer requirements effective November 1, 2023

Effective November 1, 2023, the following prerequisites are required in order to be eligible for the following positions:

Fire Chief and Deputy Fire Chief: Dover Fire Department Fire Officer under firefighter requirements in the By Laws and DE Fire Officer II or Pro Board Fire Officer II or equivalent as determined by the DSFS (letter needed from the DSFS) and successful completion of at least 4 Active membership (the category) years

Assistant Chiefs: Dover Fire Department Fire Officer under firefighter requirements in the By Laws or equivalent as determined by the DSFS (letter needed from the DSFS) and successful completion of at least 3 Active membership (the category) years

Captain: Dover Fire Department Firefighter III under firefighter requirements in the By Laws or equivalent as determined by the DSFS (letter needed from the DSFS) and successful completion of at least 2 Active membership (the category) years

- (Code 1968, § 2-55; Ord. of 10-25-1976; Code 1981, § 7-33; Ord. of 6-14-1993)
- **Sec. 46-74. - Terms.**
- (a)
- *Calendar year.* The fire department officers shall serve from ~~January 1 immediately following their appointment until the following December 31~~, the Tuesday after the first City Council meeting in December until the following Tuesday after the first City Council meeting in December except that an appointee to fill a vacancy shall assume the post upon qualification.
- (b)
- *End of service.* If a successor has not been elected and qualified for office at the expiration of an officer's term, then the incumbent shall serve until his successor is duly elected and qualified.
- (Code 1968, § 2-56; Code 1981, § 7-34)
- **Sec. 46-75. - Date of election of nominees.**

- The election of nominees for fire department officers shall be held each year on the third Monday in November.
-
- (Code 1968, § 2-57; Code 1981, § 7-35)
- **Sec. 46-76. - Notice of election of nominees.**
-
- The ~~city clerk~~ Fire Department Secretary shall notify the various fire companies of the election of nominees for fire department officers at least one week before the nominee election is to be held, stating the time and place of the election. A copy of the notice shall at once be placed on the bulletin boards of the respective firehouses by the secretaries of the fire companies.
-
- (Code 1968, § 2-58; Code 1981, § 7-36)
- **Sec. 46-77. - Election and voting regulations for nominees.**
- Each fire company shall conform to the following regulations for the conduct of nominee elections for fire department officers:

- (1)

- *Membership list.* At least ~~two days~~ one week before the nominee election, ~~each fire company shall send~~ the fire department secretary and fire recorder shall post a list of its active members in good standing ~~to the city council~~. These lists shall be certified by the president and secretary of each fire company, shall be under seal and shall be used by the judges of the nominee election to determine qualified voters.

- (2)

- *Where and how election held.* The nominee election shall take place at a firehouse designated by the ~~city council~~ fire department President and shall be conducted by three judges appointed by the ~~city council~~ fire department President for that purpose.

- (3)

- *Eligible voters.* The nominee election judges shall not permit anyone to vote whose name is not on one of the lists mentioned in subsection (1) of this section. If a member's name appears on the lists, but it is proven to the satisfaction of the judges that he does not meet the requirements of active membership, then that person shall cast a challenged ballot. The term "active membership," for the purposes of this section, shall mean a member who has responded to at least 125 of the alarms, by way of attendance, during the year immediately preceding the certification of the voting list and is in the category of active and life membership within the fire department. This requirement is waived for any member who was on active duty in the military service during any portion of that year and who is otherwise in good standing with his individual fire company.

- (4)

- *Secret ballot.* The nominee election shall be by secret ballot and each voter shall have only one vote for each of the open nominee positions.

- (5)

- *When polls open.* Polls shall open at 7:00 p.m. and shall close at ~~9:00~~ 8 p.m.

- (6)

- *Absentee voting.* ~~Absentee voting shall be permitted in accordance with the procedure adopted for absentee voting at regular municipal elections contained in chapter 34, article III.~~
- *Follows the Constitution and By Laws of the robbins Hose Company.*

- FYI, the following is in the Robbins Hose Co No 1 Inc Constitution and By Laws
-
- In case an alarm of fire should occur while the election is in session, so as to render it necessary to adjourn the election or should an alarm of fire occur at such a time so as to prevent the Company from organizing the election at the appointed time, the election shall be held on the following evening at the same time.
-
- The intention of this is to provide qualified voters of the fire department who are unable to appear at the polling place to cast their ballot on the day of an election with the ability to cast an absentee ballot.
-
- Any qualified elector, duly registered, of this fire department may cast their vote by absentee ballot in any regular election or special election if the elector is unable to appear at the polling place due to reasons set forth in 15 Del. C. § 5502—Persons eligible to vote by absentee ballot.
-
- Any voter who is qualified under 15 Del. C. § 5502—Persons eligible to vote by absentee ballot, and who desires to receive an absentee ballot may request one by filing a statement with the Nominating Committee, subscribed and sworn to by the voter, no later than 12:00 noon the day before the election.
-
- Upon receipt of a statement from a voter, the Nominating Committee, not more than 60, nor less than four days prior to the regular or special election and within three days after the absentee ballots, envelopes and instructions for completing and returning an absentee ballot become available, shall mail to the voter, postage prepaid, an official ballot, enclosed in an official envelope, along with a voucher envelope marked "voucher envelope," a copy of the instructions for completing and returning an absentee ballot and a mailing envelope marked "mailing envelope." Nothing contained in this section shall prevent the issuance of an absentee ballot to those lawfully entitled thereto prior to 12:00 noon on the day prior to any regular or special election when the request is made less than four days prior to the regular or special election.
-
- In the event of a tie, an additional election will take place for that position on the following Monday. The same election format is to be followed as the regular election.
-

- (Code 1968, § 2-59; Code 1981, § 7-37; Ord. of 10-12-1982; Ord. of 8-14-2000; Ord. No. 2017-07 , 6-26-2017)

- **Sec. 46-78. - Certification of results of nominee election.**
-

- Immediately after the close of the nominee election polls, the election judges shall tally and certify the results of the nominee election. The ballot box, together with the ballots, judges' certification and tally sheet, shall be sealed and delivered within 24 hours, to the city clerk. ~~The city manager, or in his absence,~~ the city clerk, shall submit the results of the election, together with the accompanying materials, to the city council at its next regular meeting following the election.

- **Sec. 46-79. - Special nominee elections.**

- If the city council shall order a special nominee election, to be held as provided in section 46-72, in order to replace a person the city council refused to appoint, that special nominee election shall be held at the time fixed by the ~~city council~~ Fire Department President and in the same manner as the regular nominee elections are held. At the special election, the person whom the city council refused to appoint shall not be voted for and any ballot cast for him shall not be counted.

- (Code 1968, § 2-62; Code 1981, § 7-39)

- **Sec. 46-80. - No contestants.**
-
- If there are no contestants available for any one of the fire department offices and this fact is certified by the president and secretary of each of the fire companies, then the city council shall appoint those officers without holding the nominee election.
-
- (Code 1968, § 2-62; Code 1981, § 7-40)
- **Sec. 46-81. - Election to fill vacancy.**
-
- Whenever the office of fire chief, deputy fire chief, fire captain or assistant fire chief shall become vacant through the resignation, death, absence or disability of any person holding that office, the vacancy shall be filled by an election held by the qualified fire company members affected by the loss of command. The election shall be held in the same manner and form as other elections of the fire department, in accordance with the provisions of this division.
- (Code 1968, § 2-63; Ord. of 10-25-1976; Code 1981, § 7-41)
-
- **Sec. 46-82. - Powers and duties of fire chief.**
-
- The fire chief shall:
  - (1)
  - *Control at fires.* Have full control of the fire department at all fires.
  - (2)
  - *Assignment of duties.* Assign to each fire company their respective duties, when necessary.
  - (3)
  - ~~*Dismissal.* Dismiss firefighters when their services are no longer required.~~
  - (4)
  - *Implement rules.* Implement those rules ~~which the city council may approve~~ for the regulation and management of the fire companies at fires, and for going to and returning from fires.
  - (5)
  - *Attend fires.* ~~Be present at all fires and, at those times, wear a suitable badge or dress whereby his office may be readily recognized.~~

(6)

Summon police. Have the authority to summon the police to maintain order and protect property during the continuance of fires.

(7)

Barriers. Cause barriers to be placed across the streets and sidewalks to prevent accidents and interference with the workings of the fire department and to admit no one within the enclosed limits, except equipped firefighters, the police and, in his discretion, those persons immediately interested in the property.

(8)

Demolish buildings. Have the power, when it is, in his opinion, absolutely necessary to stop the spread of a conflagration, to cause to be pulled down or blown up those buildings that shall be required to be removed.

(9)

Enter private property. Have the power to cause those members of the fire department that he shall deem proper, with the apparatus that shall be necessary, to enter upon any private property for the purpose of extinguishing a fire. He may cause those fences or other obstructions to be removed that he may deem necessary.

(Code 1968, § 2-51; Code 1981, § 7-42)

Sec. 46-83. - Submission of annual report to city council.

The fire chief and President shall present the city council with a report at its annual meeting, which shall state the ~~number of fires occurring during the past year, their causes and the monetary losses resulting as nearly as can be ascertained, the number of active members in the fire department, the number of feet of hose and the conditions of the apparatus and hose of each fire company.~~

Fire suppression and administrative activities of the department.

(Code 1968, § 2-33; Code 1981, § 7-43)

Sec. 46-84. - Powers and duties of deputy fire chief, assistant chiefs and fire captains.

(a)

In the absence of the fire chief, the deputy fire chief, and the assistant fire chiefs, a fire captain, who shall be predetermined by the fire chief, shall assume the powers and duties and be obeyed accordingly.

(b)

In the absence of the fire chief, the deputy fire chief, and the assistant fire chiefs, the fire captain shall then assume the powers and duties and be obeyed accordingly.

(c)

It shall be the duty of the deputy fire chief, the assistant fire chiefs, and the fire captain to be present at all fires and to assist the fire chief in the discharge of the duties of his office.

(Code 1968, § 2-52; Ord. of 10-25-1976; Code 1981, § 7-44; Ord. of 6-14-1993)

~~**Sec. 46-85. - Violation of election regulations.**~~

~~Any fire department member who shall violate any of the election regulations of this division shall be reported to the city council for appropriate action. If, upon investigation, the fire~~

~~department member is declared guilty of violating the same, he may be suspended from membership in his fire company.~~

- ~~(Code 1968, § 2-64; Code 1981, § 7-45)~~

Secs. 46-86—46-120. - Reserved.

Address He/she throughout

Renumber as appropriate

COMMITTEE ACTION FORM

PROCEEDING: Council Committee of the Whole – Legislative and Finance Committee

DEPARTMENT OF ORIGIN: N/A

DATE SUBMITTED: September 10, 2020

PREPARED BY: Councilmen David Anderson, Gerald Roche and Roy Sudler Jr.

SUBJECT: Clarification of the role of the Dover Human Relations Commission

REFERENCE: *Dover Code of Ordinances* Chapter 58 - HUMAN RELATIONS ARTICLE I. - IN GENERAL

29 Del. C. Chapter 100

RELATED PROJECT: N/A

REVIEWED BY: N/A

EXHIBITS:

A- DHRC Strategic Plan for 2020-2023

B- Email concerns from the public and oral testimony

C- Dover HRC Minutes from May 27, 2015

EXPENDITURE REQUIRED: None

AMOUNT BUDGETED: $3000

FUNDING SOURCE (Dept./Page in CIP & Budget): N/A

TIME TIMETABLE: Upon adoption by City Council

RECOMMENDED ACTION: Restoration of the intake form, allowing the committee to participate in non-binding mediation, and encouragement to participate in community education activities as outlined in the

BACKGROUND AND ANALYSIS

The City of Dover formed the Dover Human Relations Commission to help create an atmosphere in the city where intergroup conflict can be identified, mediated, and resolved before erupting into serious conflict. Over the years, changes were made that have been construed in such a way that both the Commission and members of the public have interpreted to deprive the Commission of the ability to fulfil its function. The value of the Commission could be seen recently in the incident in the attached minutes. The most frequent complaint that we encountered is that there is no longer any way for the public to bring a matter for either consideration or referral by the Commission to another organization. We, therefore, recommend restoration of the intake form and that the Commission be allowed to review them for proper disposition. We also recommend that members be allowed upon authorization by both the parties involved and a vote of the

committee, be allowed to participate in non-binding mediation. Finally, we seek to assure the Commission that it may participate in community engagement and co-sponsor educational events with Council approval as long as such engagement does not violate the Freedom of Information Act section 10002 (g) which states thar“ ‘Meeting’ means the formal or informal gathering of a quorum of the members of any public body for the purpose of discussing or taking action on public business either in person or by video-conferencing.” We also recommend that members who have not obtained mediation training, be encouraged to obtain said training. We reaffirm the strategic plan approved by Dover City Council.

We believe this set of recommendations is consistent with the current *Dover Code of Ordinances*, unless advised otherwise by Counsel. If a contrary opinion is given, we direct an ordinance be drafted consistent with these recommendations by the November 2, 2020 for presentation to Council by the normal order.

City of Dover Human Relations Commission Strategic Plan

2020-2023

I. INTRODUCTION

The establishment, purpose, powers and duties of the City of Dover Human Relations Commission (hereinafter, "the Commission") are provided for in Part II of the Dover Delaware Code of Ordinances Chapter 58-Human Relations, Article II Human Relations Commission.

Broadly representative of racial, religious, gender, and ethnic groups residing in Dover, the nine volunteer members of the Commission are all residents of the City of Dover. They are appointed by the president of the Dover City Council, based upon recommendations from and subject to confirmation by the Council.

The Commission began a strategic planning process to define its strategy, focus and direction for the years 2020-2023. This has evolved into a revised Strategic Plan for the years 2020-2023.

In developing this phase of the planning process the Commission, based upon the first phase, has organized its objectives around the components of its mission, its commitment to competency, transparency, public accountability and in accordance with the aforementioned Ordinance.

II MISSION

The Commission is committed to a philosophy of inclusion, intergroup cooperation and fair treatment. It works to ensure that the City of Dover has and utilizes policies, programs, ordinances, organizational practices, specialized resources and appropriately trained employees to support diversity, inclusion, and cultural competency.

By involving all segments of the community, the Commission promotes an understanding of and an appreciation of the benefits of diversity, inclusion, cultural competency, and positive intergroup relations among the City's diverse residents. It also advocates for an environment of fairness and respect.

The Commission works with the City Council, the City Administration and community organizations to enhance intergroup relationships, to eliminate discrimination, and to

anticipate, prepare for and resolve incidents of intergroup conflicts and disputes within the city.

IIIVISION

The Commission's vision is a city whose government, organizations, groups, and individual citizens value diversity, inclusion, respect, and trust.

Mission Component:

A. Work to insure that the City of Dover has and utilizes policies, programs, ordinances, organizational practices, specialized resources and appropriately trained employees to support diversity, inclusiveness, and cultural competency in its organizations and services.

Objectives

A.1 Promote and develop an environment of fairness and respect among its citizens.

A.2 Develop ways to measure and monitor community relations, particularly those that are sources of intergroup conflict.

A.3 Involve all segments of the community in understanding and appreciating the benefits of positive intergroup relations.

A.4 Research a range of programs and services that will help its residents and neighborhoods prevent and/or resolve issues of human relations.

A.5 Research ways of anticipating, preparing for, and relieving tensions arising from intergroup conflict.

A.6 Build a strong partnership with the Dover Police Department to identify additional human relations approaches and lessons that can be integrated into the Dover Police Department's ongoing Community Relations strategy.

B. Promote equal opportunity and prevent discrimination by advocating for understanding, for an appreciation of the benefits of diversity, for inclusion, and for positive relations among residents to encourage an environment of fairness and respect.

Objectives:

B.1 Assess how the community of Dover is organized and identify organizations, churches, fraternities, sororities, and other organizations with whom the DHRC should establish relationships.

B.2 Provide a report to the DHRC Chair to be incorporated into the Chair's Annual Report to the Dover City Council to include the current state of diversity and inclusion within the Dover communities.

B.3 Identify, support, and participate in and create programs and events within the City of Dover which celebrate its diversity and promote greater understanding of issues, concerns, and needs of our diverse population.

C. Work in partnership with members of City Council and the City Administration to collaborate with other organizations to strengthen intergroup relationships to eliminate discrimination and resolve incidents of intergroup conflicts within the city.

Objectives:

C.1 Develop a means such as an intake form, written complaint or a verbal complaint in order to determine when a diversity, inclusion, and/or human relation issue exists, and establish a process for receiving and responding to complaints and take action to resolve or improve the situation.

C.2 Develop a procedure with the State Human Relations Commission to delineate the roles and responsibilities of the two Commissions in order to resolve alleged discrimination complaints. Determine which complaints fall within the jurisdiction of either the State or City Human Relations Commission.

C.3 Review the City of Dover's Code of Ordinances and make recommendations to Dover City Council that will improve the city's effort to eliminate discriminatory behavior.

C.4 Research and design plans for monitoring intergroup conflict and for responding to community conflicts and disruptions within the City of Dover.

COMPETENCY TRANSPARENCY AND ACCOUNTABILITY

D. The Commission is committed to acting with a high degree of competency, transparency, and accountability both to the Dover City Council and to the community.

Objectives

D.1 Establish regular two-way communication between Council and the Commission to review and affirm the Commission's Strategic Plan and activities regarding diversity, inclusion, and human relation issues that may be particularly critical or relevant within each City Council District. Each Council District representative will recommend individuals to serve on the Commission as vacancies occur.

D.2 Improve community awareness of the Commission and provide a better understanding of its role through the use of a brochure, the media, and the internet. A link to **Dover, Delaware Code of Ordinances, Chapter 58 - Human Relations, Article II. - Sec. 58-36 Powers and Duties** should be made available to the public on the DHRC web page. This will give citizens a clear idea of the Commission's authority.

D.3 Research and recommend to the City Council, the City Administration, and members of the Commission a program that provides greater understanding of diversity, inclusion, human relations issues and conflict management. This will strengthen skill in dealing with these issues.

D.4 Provide due notice and access to the public by conducting all meetings in accordance with the Delaware Freedom of information Act (FOIA) and City of Dover procedures.

D.5 Beyond the City's Budget line, the Commission may identify and seek funding from other sources to more effectively carry out its responsibilities.

V. IMPLEMENTATION AND ORGANIZATIONAL STRUCTURE

Once the Commission adopts these proposed strategic objectives the Commission will develop and implement specific work plans for each strategic objective within the assigned year or years. These work plans will include priorities and initiatives.

The Dover Code of Ordinances centralizes decision making at the Commission level. However, it is suggested that a functional committee structure be utilized to move these strategic objections into actual performance.

In order to respond to an emergent human relations issue that may not be identified in this plan, the Commission may from time to time create afunctional committee. Such committees are intended to convene, and make recommendations for action to the full Commission; and, then disband when they are no longer relevant or needed.

Actions History

02/10/2020 - Approved by City Council
01/16/2020 - Revised by Dover Human Relations Commission
10/13/2014 - Approved by City Council
09/23/2014 - Introduced at Dover Human Relations Commission
09/08/2014 - Draft prepared by Eugene B. Ruane, City of Dover Human Relations Commissioner

From:	Anderson, David
To:	City Clerks Office
Subject:	FW: Need and explanation and a meeting
Date:	Thursday, September 10, 2020 12:24:00 AM

Please include Mr. Wilson's email in the Human Relations item in the packet.

From: McDowell, Traci <tmcdowell@dover.de.us>
Sent: Thursday, June 25, 2020 9:13 AM
To: City Clerks Office <CityClerk@dover.de.us>
Subject: FW: Need and explanation and a meeting

This email has been blind copied to the Mayor and Members of City Council

From: Cecil C. Wilson <w63w130@aol.com>
Sent: Wednesday, June 24, 2020 11:32 PM
To: McDowell, Traci <tmcdowell@dover.de.us>
Subject: Re: Need and explanation and a meeting

PLEASE SEE CORRECTION BELOW FROM MS. PAUL BELOW. PASS ON PLEASE. Cecil C. Wilson

-----Original Message-----
From: Chelle Paul <chellepaul45@gmail.com>
To: Cecil C. Wilson <w63w130@aol.com>
Sent: Wed, Jun 24, 2020 8:09 pm
Subject: Re: Need and explanation and a meeting

I'm sorry Mr. Wilson I should have been specific. I was speaking about Mr Bobby Wilson from the NAACP with regards to the interview.

On Wed, Jun 24, 2020 at 7:37 PM Cecil C. Wilson <w63w130@aol.com> wrote:

> To All:
>
> Thanks for the information below, however, I will not be available to meet with or discuss any of the items below at this
> time. I will submit in writing my views with issues that I believe should be legally changed as to diversity and inclusion,
> Dover Human Relations Commission, Police, Civil Rights, City Commission/Boards, Capital School District, and other issues.
>
> As you know, there are many voices that need to be heard in our community which may be for or against an issue or change.
>
> I would like all of the voices to be heard and respected without repeating our past. You might like some of the voices
> that you hear or may turn on you because of their right to speak up. Let all be heard as they want to speak justice
> to power.
>
> I will be writing as a community member and not as a member of any church, organization or speaking on behalf

of anyone as to my views only..

So, I will not be taking phone calls as I am continuing to have dental work done in a timely manner.

Working,

Cecil C. Wilson

-----Original Message-----
From: Chelle Paul <chellepaul45@gmail.com>
To: Andre Lamar <andre.lamar@doverpost.com>; Cecil C. Wilson <w63w130@aol.com>; City Clerks Office <cityclerk@dover.de.us>; Craig Anderson <canderson@newszap.com>; Lytle, Emily <elytle@doverpost.com>; Tom Lehman <tlehman@wboc.com>
Sent: Wed, Jun 24, 2020 12:56 pm
Subject: Need and explanation and a meeting

Good afternoon City Councilmen and Mr Mayor,

At your budget meeting you put over 80,000 dollars aside for training for the Chiefs review board set up he is proposing and not getting well needed body cams.

1. Why are you setting money aside for something that the people don't need? You already have the City of Dovers Human Relations Commission that is already there you just need to restore it's investigative power and hearing power.

2. Why are you not getting the body cams?
Because it's less room for cover up of the officers violating policy and first amendment rights

3. Why are you pushing a review board headed by the Chief the people don't need wasting tax payers money? Because the police want to continue the same practices violating the right of the black community. You want to continue beating, abusing and killing black citizens without consequences.

Help me make sense of this?

I want an interview conducted with the Chief, the Mayor, Councilmens ALL the city councilmen Mr Wilson, two other activists organization myself.

Let's put this in the media and we all have the opportunity to have some valid questions answered and we need valid answers.

This is the very definition of racism because you have the ability to keep another race contained due to your power!

Whether your conduct the interview or not I'm still going to have an exclusive interview. I'm inviting you so we can get some answers and a clear understanding who knows if you give us some insight and I might agree to what your proposing but right now it's appearance is a suppressive nature not to help.

You're attempting to waste tax payers money to reinvent the wheel where you have the same community your wasting tax payers dollars on. You can at least restore the investigative powers of the community compromise on the hearing of the community. Keep your proposed community on hold for

> 1 yr and give us our body cams.
>
> Your transparent with telling the black community you don't give two shits about them at this point right down to the street clean up!
>
> I'm challenging you to give a damn at this point!
>
> Please respond because I need to set this press conference up with or without you the entire community has a right to know what your doing with their money and how carelessly your spending it. Your keeping us lock down like animals for what? To try to maintain control . Where you use this opportunity to do something that is Actually needed not only to bridge the gap but to actually make positive change.
>
> Sincerely
> Lachelle Paul
>
> --
> Chelle Paul

--
Chelle Paul

From: Anderson, David
To: City Clerks Office
Subject: FW: Body cameras and Reconstruction of City of Dover Human Relations Commission
Date: Thursday, September 10, 2020 12:22:34 AM

Please include Ms. Paul's email in the packet with the Human Relations agenda item.

From: Lindell, Matt <matt.lindell@dover.de.us>
Sent: Thursday, June 25, 2020 3:10 PM
To: Anderson, David <david.anderson@dover.de.us>
Cc: Sudler, Roy <roysudlerjr@comcast.net>; McDowell, Traci <tmcdowell@dover.de.us>
Subject: Re: Body cameras and Reconstruction of City of Dover Human Relations Commission

Good Afternoon David and Roy,

I have no problem adding this item to the August meeting; however, will you have your proposal submitted prior to the packet deadline for that meeting? I would like the committee to have a copy of your proposal, so all have a chance to look at it prior to the scheduled meeting. I hope this will add more depth to the conversation and lead to a more efficient markup process. In addition, it will allow the community time to look at your proposal as well and offer feedback. I CCed Traci on this email, so that she knows to add this to the L,F & A agenda and to expect a copy of your proposal for the August committee packet.

As far as the town hall meeting, please let me know the details once you have them.

Thanks!

Matt

From: Anderson, David <david.anderson@dover.de.us>
Sent: Thursday, June 25, 2020 11:02 AM
To: Lindell, Matt <matt.lindell@dover.de.us>
Cc: Sudler, Roy <roysudlerjr@comcast.net>
Subject: Fw: Body cameras and Reconstruction of City of Dover Human Relations Commission

Councilman Lindell:

There have been many people in the community wanting to update the City of Dover Human Relations Commission. Councilman Sudler and I are working on a proposal. Would you please put space on the agenda for the August meeting.

We would also like invite you to participate in coming townhall that is likely to be sponsored by the Cen DE NAACP. It could be enlightening. I just wanted to put it on your radar. Nothing

is set yet.

Respectfully,

The Honorable David L. Anderson

4th District Dover City Council

(302)736-7006 office

(302) 339-1047 Cell (personal)

david.anderson@dover.de.us

davidlevianderson@gmail.com (personal)

From: McDowell, Traci <tmcdowell@dover.de.us>
Sent: Thursday, June 25, 2020 10:17 AM
To: City Council <CityCouncil@dover.de.us>
Subject: FW: Body cameras and Reconstruction of City of Dover Human Relations Commission

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From: Chelle Paul
Sent: Thursday, June 25, 2020 10:15:47 AM (UTC-05:00) Eastern Time (US & Canada)
To: City Clerks Office; Christiansen, Robin; canderson@newszap.com; tlehman@wboc.com; andre.lamar@doverpost.com; elytle@doverpost.com
Subject: Body cameras and Reconstruction of City of Dover Human Relations Commission

Good morning Mr. Mayor, City Councilmen and Press,

I Good Mr. Mayor and City Councilmen,

I have attached a copy of The City's Diversity Inclusions Report study Assessment to this email. Page 8 of 89 states that there was no participation ANY WHITE men or women sworn officers when it came to the Diversity report section.

Why is this important as a fact of this subject matter?

It's clear that the white officers that make up this force either don't care about Black or other ethnic races or they don't know how to respond because they don't know how to interact with black people or other ethnic races.

Body cameras will calm the fear of the black community because it gives added protection against

mistreatment And violation of Civil Rights by police officers.

It will also be your best teaching tool to find and correct the weaknesses and strengths in each officer individually. The Chief will have the access to view the officers interactions with the citizen during routine stops, disturbances and all other calls. The chief can pick certain officers to evacuate per week study their stops and interactions and determine what that individual officer needs based on his personal performance. This is the way you can police your own police and remain proactive as opposed to reactive once they hurt or killed someone. If body cams were available with Webber and you utilize the cameras to watch officer performance you could have given him write ups for behavior for every violation, the tax payers would not have been liable to use our money to pay him off to leave and his service record would have reflected his true work performance and character as an officer and a mother would not have been forced to bury her child.

Stop just doing business as usual and try to actually make a difference for the entire community for once.

Take the Human Relations Commission and reconstruct it so that it can be effective and functional again.

These Body Cameras are needed and the Chiefs review board is not a priority at this time. The Dover Human Relations Commission did not require start up money nor should this one that in its self shows how discrimination is a factor just with the start of the committees there was no money set aside for that committee and a man was killed at the hands of your police officers. Why give $80,000 + dollars to this committee.

Secondly attitude reflects leadership. These White officers NOR supervisors participated in the study of the diversity section. Then your new review board will continue to be noninclusive of the black community and will limit the seats held on the committee by members of the black community based on the educational requirements alone.

Wake up your thoughts process may not intentional be discriminatory and continue to be noninclusive of the black community.

I will be contacting the governors office and your not making wise choices with spending tax payers money and your putting the cart before the house making decisions about a committee not even voted on. By you doing this your showing and saying regardless on what input is given by the community you're going to do what you want and that is definitely not acceptable.

You will have signed petitions from all zones from the ENTIRE community on both matters Monday. We want our community functioning at its best which requires compromise and listening.

Enjoy your day,
Lachelle Paul

DOVER HUMAN RELATIONS COMMISSION

The Dover Human Relations Commission (DHRC) meeting was held on May 27, 2015 at 5:15 p.m. with Vice Chairman McGiffin presiding. Members present were Mr. Henderson, Mr. Roach (arrived at 5:29 p.m.), Mr. Ruane, Mrs. Sadusky (arrived at 5:17 p.m.), Ms. Smith, and Ms. Stewart. Ms. Hicks was absent.

AGENDA ADDITIONS/DELETIONS

Mr. Henderson moved for approval of the agenda, seconded by Mr. Ruane and unanimously carried.

Election of Commission Chair

Mr. McGiffin advised members that Chairman Cecil Wilson had resigned from the DHRC and it would be necessary to elect a new Chair.

Mr. McGiffin moved to nominate Ms. Smith to serve as Chair, seconded by Mr. Ruane and unanimously carried.

Mr. Henderson moved to close nominations, seconded by Mr. Ruane and unanimously carried.

By unanimous consent, Ms. Smith was elected to serve as Chair of the DHRC.

Ms. Smith expressed her appreciation for being entrusted with the role of DHRC Chair and stated that she would do her best to serve members and the community with integrity and ensure that every voice is heard.

Mr. McGiffin indicated that he would be happy to continue to serve as Vice Chairman.

Discussion - Recent Events Involving the Dover Police Department

Maj. Marvin Mailey, Deputy Chief of Police, advised members that a couple of weeks ago a video was released of an arrest made by Officer James Webster on August 24, 2013. Maj. Mailey indicated that a Use of Force Report is generated anytime an officer uses force during the course of an arrest and the City of Dover Police Department had been in possession of the videotape since the onset of this report. He advised members that at the time of the incident, Mr. James Hosfelt was serving as Chief of Police, current Police Chief Paul Bernat was a Major in the Department, and Maj. Mailey had been working in the Department's Internal Affairs Division. Maj. Mailey explained that he had done the investigation himself and, although the details of the investigation were protected under the Law-Enforcement Officers' Bill of Rights, it was found that Officer Webster had violated policy. He was punished appropriately and was suspended for an undisclosed length of time. Maj. Mailey stated that Officer Webster was retrained and put back to work as part of the closure of the investigation.

Maj. Mailey stated that when the incident was being investigated in 2013, the videotape was shown to the State Attorney General's Office, who presented it to a grand jury. The grand jury elected not to charge Officer Webster at that time. It was also presented to the U. S. Department of Justice (DOJ) in Wilmington, where it was reviewed. No wrongdoing was seen and no charges were pursued. Maj. Mailey assured members that all of the information that the Dover Police Department could provide from a prosecutable standpoint, as far as their investigation, was provided because the

Department investigated the incident criminally as well as internally. He explained that an internal investigation is separate from a criminal investigation. During an internal investigation, an officer is compelled to answer questions that they would not normally answer during a criminal investigation since they would be invoking their Fifth Amendment right. Maj. Mailey stated that the U.S. Department of Justice passed on prosecuting the case and Officer Webster returned to work.

Maj. Mailey advised members that this matter was brought to light again when a law suit was subsequently filed by Mr. Latif Dickerson and the American Civil Liberties Union (ACLU) became heavily involved. During the course of this civil suit, the videotape was deemed non-confidential by the judge. Maj. Mailey stated that it became evident that the video was going to be released at some point, and the City reached an impasse in negotiations with the ACLU as to how and when this would occur. He explained that the ACLU was threatening to release it before the City could prepare residents for what might happen. Maj. Mailey noted that it was desired to avoid, in Dover, events similar to those that had recently occurred in Ferguson, Missouri; Baltimore, Maryland; and all across the United States.

Maj. Mailey explained that the City contacted and met with the National Association for the Advancement of Colored People (NAACP), showed them the videotape, and informed them that the City was aware of the event. It was explained that the Police Department had investigated the incident and posed it to two (2) individual law enforcement agencies, the DOJ and the State Attorney General's Office, who passed on prosecution. Maj. Mailey stated that the NAACP was advised that the City did not try to hide the incident and acknowledged that what Officer Webster had done was wrong and his actions were not condoned in Dover. Maj. Mailey indicated that the City made the NAACP aware of everything that potentially could come out of this videotape.

Maj. Mailey advised members that the NAACP had questions which the City answered, and the City and the NAACP worked together to a point. He stated that Mr. Lamar Gunn, President of the local chapter of the NAACP, did not want the City to release the videotape because he feared backlash in the community in the way of protests, demonstrations, and destruction of property, which Maj. Mailey stated did not occur. He indicated that people in the community were not happy about it, as reflected in posts on the internet and the Police Department's website as well as calls made to the Police Department; however, they were not upset to the point of rioting or demonstrating. Maj. Mailey indicated his belief that this was because there had been closure to what happened, noting that the Attorney General's Office reopened the investigation, the videotape was shown to another grand jury, and Officer Webster was charged. Maj. Mailey stated his understanding that Officer Webster's trial date would be coming up on May 28, 2015, noting that he was currently suspended without pay from the Dover Police Department pending the criminal case. Maj. Mailey stated that the Dover Police Department's investigation had been completed in 2014 when the case was referred to the two (2) agencies and discipline was imposed.

Responding to Ms. Smith, Maj. Mailey stated his belief that the reason this issue resurfaced was due to the civil lawsuit filed by Mr. Dickerson, noting that the possibility of the videotape being released probably contributed.

For clarification, Mr. McGiffin explained that on the criminal side of the law, the Dover Police Department went to the State prosecuting authority, who initially determined to take no action. The Federal prosecuting authority also investigated and decided to take no action. The new State Attorney General then decided to take another look at it and, this time, the State decided to take prosecutorial action, all of which was on the criminal side of the law. On the civil side of the law, Mr. Dickerson and the ACLU of Delaware decided to take civil action. Mr. McGiffin informed members that there were two (2) different cases on two (2) different tracks; the government deals with the criminal track, but the civil track is handled by Mr. Dickerson or the ACLU on his behalf.

Mr. McGiffin stated that this item had been placed on the agenda because he felt it important for the DHRC to acknowledge that this event took place and the Commission did not have a role in the City's response to it, stating that the DHRC was not asked for advice or comment. Mr. McGiffin felt that this was the kind of issue that the DHRC should be able to address when the Commission matures as an organization, and that members should be in the loop when something like this happens.

Maj. Mailey advised members that former DHRC Chairman Wilson was aware and sat in on one (1) of the meetings just prior to the videotape being shown.

In response to Mr. Ruane, Maj. Mailey indicated that the Use of Force Policy is in the Dover Police Department's rules and regulations and policy manual, stating his belief that this information would be available to the public. Maj. Mailey advised members that the behavior seen on the videotape, as far as a kick to the head, was outside of the policy and was not what officers are trained to do. He indicated that the Department has a continuum with respect to the use of force that progresses from voice inflection through a hands technique for grasping people, the use of taser and pepper spray, up to the use of lethal force.

In response to Mr. Ruane about training for the new officers that were being hired at the Police Department, Maj. Mailey confirmed that these officers would obtain basic knowledge about use of force from State training. When they come to the Dover Police Department, they would go through a field training tour with another seated officer. Maj. Mailey explained that they would go over related policies, procedures, and regulations as part of that orientation and training.

In response to Mr. Ruane, Maj. Mailey confirmed that this particular officer had undergone that training and then was retrained when he returned to active duty on the force. He informed members that officers undergo training once per year, which he compared to continuing education, noting that they are re-certified in CPR and review criminal law. Maj. Mailey stated that they may also go over how to deal with the public, verbal communication skills, safe and legal traffic stops, avoiding profiling, integrity classes, etc.

In response to Ms. Smith as to whether Officer Webster's discipline included non-payment, Maj. Mailey stated that Officer Webster had been placed on paid administrative leave up to a certain point in the process when discipline took over. Maj. Mailey could not speak to why Officer Webster

was disciplined or whether or not he was paid during his punishment time since this was part of the Law-Enforcement Officers' Bill of Rights; he could only say that Officer Webster was disciplined by the agency.

Mr. McGiffin expressed his hope that this event would show members that there is a need to increase the DHRC's profile as a commission and develop credibility. He felt that this would be done through the committee work that the Commission had agreed to do, noting that this would expose everyone in the City to the DHRC. Mr. McGiffin stated that the DHRC's research project would involve interviewing people, making online surveys available and offering focus groups for discussion of diversity issues, and the police would also be asked to cooperate in this regard. The DHRC would work with all of the various City agencies. Mr. McGiffin hoped that if there were another similar situation in the future, people would look to the DHRC. He expressed his opinion that the DHRC should recommend that the City formally include the DHRC in their plan to deal with emergencies of this nature so that the Commission can do what it is charged with and wants to do.

In response to Mr. Ruane, Maj. Mailey stated that Chief Bernat had taken leadership and proactively held meetings in regard to this incident, and the Mayor was also involved.

Mr. Ruane suggested, as the new Chair of the DHRC, that Ms. Smith look for an opportunity to speak with the Mayor and the Police Chief about who the DHRC is and what their role might be. He advocated using this incident as an example and asking that the City include the DHRC when inviting parties to public meetings to address these situations proactively.

Mr. Henderson stated that other ad hoc committees, religious communities, and ministers should not be overlooked, noting that he had seen this approach used in Baltimore and other cities. He advised members that Dover's Interdenominational Ministerial Alliance (IMA) was very proactive.

Mr. Roach stated the importance of the Police Department building rapport within the community.

In response to Ms. Smith regarding how the DHRC could support and strengthen its relationship with the Police Department, Maj. Mailey suggested that members do a ride along with officers to see the complaints they respond to and how they interact with the public. He concurred with Mr. Roach that more officers were needed walking in the community and stated that a program had been started to have officers walk through neighborhoods as part of extra duty assignments. He indicated that this was working in Wilmington and felt it would work in Dover. Maj. Mailey advised members that the City's police cadets would be working in the downtown area, the Dover Public Library, and in neighborhoods.

Maj. Mailey stated that for many years the Police Department had been forced to do more with less and had not had the personal contact needed since they were occupied with going after those who were getting out of line. He indicated that if officers had more time for inter-personal communication, there would be less misunderstanding. Maj. Mailey advised members that, just as in other professions, there are good and bad police officers; however, he assured members that bad officers in Dover would not last long because there are corrective measures in place. Maj. Mailey

stated that the Dover Police Department offers a Citizens' Police Academy for a couple of weeks over the summer that allows citizens to learn about how the Department operates, what is done during the course of drug and burglary investigations, community policing, and the Department's social media program. He noted that the social media program had helped the Department reach out to the community on a lot of fronts, noting that the Dover Police Department was featured in a recent YouTube video, and there was a similar follow-up video as well. Maj. Mailey invited members to tour the Police Department and meet the officers. He stated that it was important for officers to get out and have fun with the community, so the community and Department could get to know one another.

Ms. Smith requested that the DHRC be informed when the Citizens' Police Academy is held.

Ms. Smith stated that the purpose of inviting someone from the Police Department was to create an awareness that the DHRC was not at the table in regard to the incident that occurred, discuss why this was the case, and find out how to get to the table. She stated that she would be happy to meet with the Mayor and Police Chief and invited members to join her to find out what was needed to solidify the relationship and create more synergy. Ms. Smith stated that the DHRC would have no power unless they had people behind them, and questioned how to get a greater following, noting that, currently, there were only eight (8) total people involved. She felt that once the Commission's constituents come to recognize and respect them, the DHRC would have power and she requested members for feedback in this regard.

Mr. Roach indicated that members attend certain community events or meetings individually, and felt it important for members to attend some of these occurrences together to show that the Commission is unified, noting that this might bring about support.

In response to Ms. Smith as to the specific target audience and types of events, Mr. Henderson stated that last week he attended a meeting with Fourth District Councilmen Anderson and Sudler at the Solid Rock Baptist Church. In regard to the police videotape incident, Mr. Henderson expressed his belief that the DHRC was not invited to the table because others were busy trying to put the fire out, but stated the need for the DHRC to make their own presence. Mr. Henderson felt that the DHRC's presence should be in Districts 3 and 4 in various meetings and functions and with various churches.

Mr. Ruane noted that there was a recent shooting in District 2.

Mr. Roach stated the need to be there for everyone, since the sensitivity and importance of various issues may be subjective.

Ms. Smith questioned how to pinpoint those events that the DHRC needs to attend as a unit and also ensure that it is a diverse group of people, how to communicate with one another that this is where members need to be, and what the DHRC's agenda would be. She stated the need to be strategic in

identifying whether the target audience would be at the grass roots or upper echelon levels. Ms. Smith reminded members that they had previously discussed partnering with groups of people as a grass roots effort, which would be more proactive than attending events. She felt the need to be very strategic in creating power and orientation.

Mr. Henderson agreed that the Commissioners needed to identify events to attend, noting that he gets information online. He also stated that Rev. Rita Mishoe Paige, member of the IMA, is very active in the community. Mr. Henderson indicated that he would like to think in terms of those he represents rather than those who follow. He stated the need for members to get out of their comfort zones as Commissioners. Mr. Henderson noted that Councilmen Anderson and Sudler, particularly Councilman Sudler, were trying very hard to get established, become aware and open up community forums, and indicated that, as a commissioner and member of the IMA, he planned to attend every one (1) of those meetings that he could. He stated that if he hears of a community meeting anywhere, he wants to be there to be aware of what is going on.

Mr. McGiffin advised members that when he was serving as City Councilman, there were seven (7) different community meetings that took place at various levels of frequency. He felt it incumbent upon himself, as a Third District Commissioner, to contact his two (2) Council district representatives to find out when such meetings are held.

Mr. Roach suggested that each commissioner could identify two (2) or three (3) events coming up in the near future and communicate them to the whole group so members could attend as a whole.

In response to Mr. Ruane, Mrs. Traci McDowell, City Clerk stated that new Council members were not made aware of the DHRC during their orientation sessions since orientation involves getting them on board, telling them what their responsibilities are, and letting them know how to get information.

Mr. Ruane commented that, in addition to meeting with the Mayor and Police Chief, there was an opportunity to educate Council about who the DHRC is and how they got to be where they are. He questioned whether newly elected Council representatives have knowledge of the DHRC or that they have a connection with commissioners. Noting that there were five (5) new members of Council, he felt the DHRC should have some strategy for reaching out to Council, whether through written communication or a meeting.

Scheduling of November 2015 Meeting Date

Ms. Smith questioned whether members should continue to meet once per month or take a few months off. She stated her opinion that there was a need to meet to build upon momentum, determine a specific direction, continue to build a brand, get into the community, make the DHRC's presence known, and get clarity on who their audience is.

Mr. Roach stated his preference for hour-long meetings once per month.

By unanimous consent, members scheduled monthly meetings to be held at 5:15 p.m. on the following dates:

June 23, 2015
July 28, 2015
August 25, 2015
September 29, 2015
October 27, 2015
November 17, 2015

Ms. Smith requested members to keep one another apprised through email about community events. Responding, Mr. McGiffin cautioned members of the DHRC's need, as a public body, to comply with the Freedom of Information Act (FOIA) and that information should be distributed through the City Clerk's Office.

Ms. Denise Devine, Assistant City Clerk, advised members to avoid serial meetings, including emails or text messages, which could violate FOIA. She stated, if members were planning to get together, they should contact the Clerk's Office to determine who should or should not attend, and whether there would be a need to post the gathering as a public meeting.

Ms. Smith requested that, over the next 30 days, members think about the events that they wish to attend, in order to pinpoint their market and whether they are trying to engage leadership or grass roots, noting that this would determine the events where they put most of their energy.

Mr. Ruane questioned if both areas could be addressed. Responding, Ms. Smith stated that focusing on two (2) totally different markets might cause members to run themselves ragged. She stated that focusing on one (1) market and building from there would not mean that members could not attend both types of events, it would just identify the target audience and a means of reaching them.

DHRC Committee Updates
By unanimous consent, this item was deferred due to time constraints.

Commission Members' Announcements
By unanimous consent, this item was deferred due to time constraints.

Mr. Henderson moved for adjournment, seconded by Mr. Roach and unanimously carried.

Meeting adjourned at 6:16 p.m.

S. Renee Smith
Chairwoman

SRS/TM/js/dd
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Misc-Minutes\HUMAN RELATIONS COMMISSION\2015\05-27-2015 Dover Human Relations Commission.wpd

Chapter 58 - HUMAN RELATIONS

ARTICLE I. - IN GENERAL

Secs. 58-1—58-30. - Reserved.

ARTICLE II. - HUMAN RELATIONS COMMISSION

Sec. 58-31. - Purpose.

The city council has deemed it to be in the best interest of the city to establish a human relations commission to include members who are broadly representative of the entire community and who are committed to a philosophy of inclusion, intergroup cooperation, and fair treatment that will effectively help the city meet the following needs:

(1) *Fairness, respect.* Promote and develop an environment of fairness and respect among its citizens;

(2) *Monitoring.* Develop ways to measure and monitor community relations, particularly those that are sources of intergroup conflict;

(3) *Intergroup relations.* Involve all segments of the community in understanding and appreciating the benefits of positive intergroup relations;

(4) *Issues.* Offer a range of programs and services that will help its residents and neighborhoods prevent and resolve issues of human relations; and

(5) *Intergroup conflict.* Develop ways of anticipating, preparing for, and relieving community tensions arising from intergroup conflict.

(Code 1981, § 2-16; Ord. of 2-11-2002; Ord. No. 2013-15, 9-23-2013)

Sec. 58-32. - Established; composition; appointment; representation; holding other office; removal from office; terms of office; vacancies; reappointments.

(a) *Established.* There is hereby established an advisory commission to be known as the "City of Dover Human Relations Commission," to carry out the objectives as described in this article.

(b) *Composition; appointment.* The members of the human relations commission shall be appointed by the president of the council, based upon recommendations from and subject to confirmation by the council. The human relations commission shall consist of nine members, all residents of the city. Two members shall be selected from each council district and one member shall serve from the city at-large.

(c) *Representation.* In selecting the membership of the commission, particular care shall be taken to ensure that the commission is broadly representative of racial, religious, gender and ethnic groups residing in the city.

(d) *Holding other office; removal.* No member of the commission shall hold any elected or appointed office under the government of the United States or the state, county, or city. The city council president may remove members of the commission, with the concurrence of the city council, for substantial neglect of duty, or gross misconduct in office.

(e) *Terms of office; vacancies.* A member of the commission shall be appointed for a term of office of three years and until his successor has been appointed . The appointees shall be appointed for staggered terms of office. When a vacancy occurs in the membership of the commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as the original appointment.

(f) *Reappointments.* Members may be reappointed.

(Code 1981, § 2-17; Ord. of 2-11-2002; Ord. No. 2010-23, 8-23-2010; Ord. No. 2013-15, 9-23-2013)

Sec. 58-33. - Organization; quorum; meetings; rules of procedure; limitation of functions; agreements; compensation; legal counsel; reports.

(a) *Organization.* The human relations commission shall annually elect its own chairperson to preside over its meetings and may create and fill such other offices and committees among its members as may be found necessary and proper for its effective organization.

(b) *Quorum.* A majority of the membership of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

(c) *Meetings.* The commission shall hold at least five meetings per year; one each quarter and one to be determined by the commission. Special meetings may be called by the chairperson or three members of the commission.

All meetings shall be held at City Hall and in accordance with the Laws of Delaware regarding the Freedom of Information Act (FOIA) and City of Dover procedures. The commission will distribute its agendas and minutes through the city clerk's office.

(d) *Rules of procedure.* The commission is also authorized to adopt rules of procedure for the conduct of its meetings.

(e) *Functions limited.* The commission shall not involve itself in activities or functions already assigned by law or decree to other governmental bodies.

(f) *Agreements.* The commission may enter into agreements and build partnerships with other entities and organizations for the purpose of more efficiently and effectively carrying out its responsibilities.

(g) *Compensation.* Members of the commission shall receive no compensation.

(h) *Legal counsel.* The city solicitor shall provide legal counsel to the commission and shall be the legal representative of the commission in connection with its duties hereunder, on a case-by-case basis, or determine that outside counsel is needed and obtain such outside counsel for a particular matter.

(i) *Reports.* The commission shall report to the city council on a quarterly basis regarding its affairs. An annual report of its accomplishments and a summary of its recommendations shall be provided to the mayor and the city council.

(Code 1981, § 2-18; Ord. of 2-11-2002; Ord. No. 2013-15, 9-23-2013)

Sec. 58-34. - Expenses.

(a) *Budget.* The city council may appropriate a budget for the city human relations commission to provide for necessary expenses and expenditures.

(b) *Other funding.* The commission may also receive funding from other governmental, philanthropic or private organizations for the exclusive purpose of carrying out its responsibilities.

(Code 1981, § 2-19; Ord. of 2-11-2002; Ord. No. 2013-15, 9-23-2013)

Sec. 58-35. - Conflicts of interest.

If any member of the human relations commission concludes that they have a conflict of interest with respect to a matter which is pending before the commission, that member shall disqualify themself from participating in any deliberations, discussions and decision making processes of the commission.

(Code 1981, § 2-20; Ord. of 2-11-2002; Ord. No. 2013-15, 9-23-2013)

Sec. 58-36. - Powers and duties.

The powers and duties of the human relations commission shall be to:

(1) *Recommendations.* Review city programs, activities, functions and ordinances, and make recommendations to the city council for new, amended or changed programs, functions, activities or ordinances which would support inclusiveness and civility among city residents and enhance communication and understanding among residents of the city;

(2) *Intergroup conflicts.* Inquire into incidents of intergroup conflicts and disputes within the city and take such action as may be designed to alleviate such conflicts and disputes;

(3) *Intergroup cooperation.* Promote and encourage communications between and cooperation of all groups interested in bettering human relations in the city;

(4) *Complaints.* Seek the active assistance of the state human relations commission in the solution of complaints of alleged discrimination which fall within the jurisdiction of the state commission;

(5) *Research, education, etc.* Engage in such research, education and advocacy as, in the judgment of the commission or the city council, may be needed to improve human relations in the city;

(6) *Programs.* Develop and maintain programs that build positive relations among communities and enhance problem-solving skills among residents throughout the city;

(7) *Other functions.* Do all other acts and deeds necessary and proper to carry out and effectively accomplish the objectives, functions and services contemplated by the provisions of this article.

(Code 1981, § 2-21; Ord. of 2-11-2002; Ord. No. 2013-15, 9-23-2013)

Status of Other Post-Employment Benefits (OPEB) and Pension Funds

No Recommended Action – Information Update Only

City of Dover

Funding Status of Fiduciary Funds (Pension & OPEB Trust) (in Thousands)

	Fiscal Year Ending, June 30					
	2019	**2018**	**2017**	**2016**	**2015**	**2014**
Net pension liability						
Police Pension Fund	$ 3,913	$ 4,898	$ 5,942	$ 7,163	$ 8,086	$ 7,220
General Employee Pension Fund	$ 18,350	$ 19,857	$ 21,100	$ 23,109	$ 23,382	$ 22,092
County & Municipal Police & Firefighter's Pension Plan	---	$ 1,940	$ 873	$ 1,431	$ (525)	$ (1,042)
OPEB Trust Fund	$ 25,780	$ 31,760	$ 40,251	n/a	n/a	n/a
Fiduciary net position as a % of total pension liability						
Police Pension Fund	78.51%	73.95%	69.03%	63.05%	60.50%	62.97%
General Employee Pension Fund	70.90%	68.46%	65.10%	60.70%	60.15%	60.91%
County & Municipal Police & Firefighter's Pension Plan	---	28.35%	12.48%	20.11%	-7.44%	-15.83%
OPEB Trust Fund	60.40%	52.00%	41.90%	n/a	n/a	n/a

		2019/20 ORIGINAL APPROVED	2019/20 PROJECTED	2020/21 REQUESTED	2020/21 RECOMMENDED	$ DIFFERENCE FY21 VS FY20 BUDGET	% CHG FY21 VS FY20 VS
30	**OTHER EXPENDITURES:**						
31	DEBT SERVICE	500,000	500,000	462,200	462,200	(37,800)	**-7.6%**
32	CONTRIBUTION TO DDP	150,000	150,000	150,000	150,000	-	**0.0%**
33	MISCELLANEOUS GRANT RELATED EXP	-	800	25,000	25,000	25,000	**0.0%**
34	INSURANCE	750,000	840,000	800,000	800,000	50,000	**6.7%**
35	RETIREES HEALTH CARE	1,894,900	1,894,900	2,045,400	2,045,400	150,500	**7.9%**
36	OTHER EMPLOYMENT EXPENSES	-	-	-	-	-	**0.0%**
37	BANK & CREDIT CARD FEES	20,000	20,000	27,000	27,000	7,000	**35.0%**
38	UNCOLLECTIBLES - TRASH AND OTHER	-	-	100,000	100,000	100,000	**0.0%**
39	STREET LIGHTS	815,000	815,000	815,000	815,000	-	**0.0%**
40	BOND ISSUANCE COST	-	-	-	-	-	**0.0%**
40	**OTHER EXPENSE SUBTOTAL**	**4,129,900**	**4,220,700**	**4,424,600**	**4,424,600**	**294,700**	**7.1%**
41	**TRANSFERS**						

CITY MANAGER
100-10-21-99-000

ACCT	DESCRIPTION	2019-2020 BUDGET	2019-2020 REVISED	2020-2021 REQUESTED	2020-2021 RECOMMENDED	% CHANGE
51011	SALARIES	$ 463,500	$ 463,500	$ 560,100	$ 560,100	21%
51012	OVERTIME	5,000	5,000	5,000	5,000	0%
51014	FICA TAXES	35,900	35,900	43,200	43,200	20%
51015	HEALTH INSURANCE	83,300	83,300	92,000	92,000	10%
51016	L I D INSURANCE	2,600	2,600	2,900	2,900	12%
51017	WORKERS COMPENSATION	1,500	1,500	1,800	1,800	20%
51018	EDUCATIONAL ASSISTANCE	8,400	8,400	-	-	-100%
51019	PENSION	63,700	63,700	76,800	76,800	21%
51020	OPEB	25,900	25,900	19,600	19,600	-24%
	PERSONNEL COSTS	**689,800**	**689,800**	**801,400**	**801,400**	**16%**

City of Dover
General Employees Pension Plan
Quarterly Return Summary

Month End	BMV	Contribution	Withdrawls	Fees	Gain	EMV	CIVILIAN-NET RETURN	CIVILIAN-GROSS RETURN
7/31/2019	$ 44,693,523.70	$ -	$ 336,165.85	$ 1,503.69	$ 228,370.65	$ 44,584,224.81	0.51%	0.54%
8/31/2019	$ 44,584,224.81	$ -	$ 336,342.31	$ 1,523.79	$ (414,185.99)	$ 43,832,172.72	-0.94%	-0.91%
9/30/2019	$ 43,832,172.72	$ -	$ 335,989.39	$ 1,516.84	$ 473,431.32	$ 43,968,097.81	1.09%	1.11%
10/31/2019	$ 43,968,097.81	$ 950,000.00	$ 339,972.64	$ 1,512.04	$ 708,695.75	$ 45,285,308.88	1.62%	1.64%
11/30/2019	$ 45,285,308.88	$ -	$ 343,673.69	$ 1,547.34	$ 770,536.73	$ 45,710,624.58	1.71%	1.74%
12/31/2019	$ 45,710,624.58	$ -	$ 351,173.96	$ 1,550.85	$ 1,069,506.79	$ 46,427,406.56	2.36%	2.38%
1/31/2020	$ 46,427,406.56	$ -	$ 363,209.91	$ 1,565.53	$ (255,970.85)	$ 45,806,660.27	-0.56%	-0.53%
2/29/2020	$ 45,806,660.27	$ -	$ 341,099.54	$ 1,574.74	$ (1,972,802.68)	$ 43,491,183.31	-4.34%	-4.32%
3/31/2020	$ 43,491,183.31	$ -	$ 342,373.42	$ 1,526.03	$ (4,838,264.09)	$ 38,309,019.77	-11.21%	-11.19%
4/30/2020	$ 38,309,019.77	$ -	$ 343,279.51	$ 1,419.27	$ 3,148,694.54	$ 41,113,015.53	8.29%	8.31%
5/31/2020	$ 41,113,015.53	$ 1,621,000.00	$ 344,281.61	$ 1,492.16	$ 1,482,295.23	$ 43,870,536.99	3.63%	3.65%
6/30/2020	$ 43,870,536.99	$ -	$ 344,270.82	$ 1,508.04	$ 1,161,474.94	$ 44,686,233.07	2.67%	2.69%
		$ 1,621,000.00	$ 1,031,831.94	$ 4,419.47	$ 5,792,464.71	Quarterly Return	15.21%	15.28%
		$ 2,571,000.00	$ 4,121,832.65	$ 18,240.32	$ 1,561,782.34	One Year Return	3.64%	3.90%

City of Dover
OPEB Trust
Quarterly Return Summary

Month End	BMV	Contribution	Withdrawls	Fees	Gain	EMV	OPEB-NET RETURN	OPEB-GROSS RETURN
7/31/2019	$ 38,406,948.51	$ -	$ -	$ 2,775.36	$ 224,488.66	$ 38,628,661.81	0.58%	0.61%
8/31/2019	$ 38,628,661.81	$ -	$ -	$ -	$ (407,777.36)	$ 38,220,884.45	-1.06%	-1.03%
9/30/2019	$ 38,220,884.45	$ -	$ -	$ -	$ 428,356.52	$ 38,649,240.97	1.12%	1.14%
10/31/2019	$ 38,649,240.97	$ 1,368,000.00	$ -	$ 2,811.67	$ 615,287.66	$ 40,629,716.96	1.59%	1.61%
11/30/2019	$ 40,629,716.96	$ -	$ -	$ -	$ 763,450.01	$ 41,393,166.97	1.88%	1.90%
12/31/2019	$ 41,393,166.97	$ -	$ -	$ -	$ 1,016,358.07	$ 42,409,525.04	2.46%	2.48%
1/31/2020	$ 42,409,525.04	$ -	$ -	$ 3,085.64	$ (161,713.81)	$ 42,244,725.59	-0.38%	-0.36%
2/29/2020	$ 42,244,725.59	$ -	$ -	$ -	$ (1,923,548.41)	$ 40,321,177.18	-4.55%	-4.53%
3/31/2020	$ 40,321,177.18	$ -	$ -	$ -	$ (4,529,037.40)	$ 35,792,139.78	-11.23%	-11.21%
4/30/2020	$ 35,792,139.78	$ -	$ -	$ 2,606.74	$ 3,204,558.31	$ 38,994,091.35	8.95%	8.98%
5/31/2020	$ 38,994,091.35	$ 1,000,000.00	$ -	$ -	$ 1,498,024.85	$ 41,492,116.20	3.83%	3.85%
6/30/2020	$ 41,492,116.20	$ -	$ -	$ -	$ 1,165,540.79	$ 42,657,656.99	2.81%	2.83%
		$ 1,000,000.00	$ -	$ 2,606.74	$ 5,868,123.95	Quarterly Return	16.31%	16.38%
		$ 2,368,000.00	$ -	$ 11,279.41	$ 1,893,987.89	One Year Return	4.76%	5.05%

City of Dover
Retirement Benefits

Benefit % of Payroll	FY21
Police Pension Fund - Closed Plan/Lump Sum	$519,600
General Employee Pension Fund - Average	61.17%
County & Municipal Police & Firefighter's Pension Plan	16.59%
OPEB Trust Fund - Average	3.20%
OPEB Trust Fund - Average with accounting change	13.50%

Memo to: City Clerk for CCOW meeting of September 15

From: David Hugg

DATE: September 8, 2020

SUBJ: Compilation of comments relative to Ordinance 2020-05, Short Term Rental Uses for consideration by the Legislative, Finance and Administration Committee.

The attached is a color-coded compilation of various comments and suggestions received of this date regarding the regulation of Short Term rental Uses (STRU). Since they are varied and potentially conflicting, I chose not to try to draft yet another version of the Ordinance, hoping instead to get Council direction and concurrence on a few important policy questions.

The most fundamental policy matters involve:

Should we regulate STRU's as a use subject to licensing or permitting at all?

Should we limit STRU operations to only those property(s) owned by a Dover resident? Residence plus one other? Allow for non-resident operation with use of a Registered Agent?

Should we regulate STRU's the same as we do for a traditional B&B Inn and require them to meet all the conditions set forth in the zoning ordinance including obtaining Conditional Use approval?

Are we interested in some intermediate rental period such as 60 days or more but less than a year as now applied to rental licenses generally?

Do we want to limit occupancy and if so, what threshold do we set?

Should we strengthen provisions and increase enforcement of nuisance provisions dealing with noise, trash, parking, occupancy, etc. – a policing approach versus a licensing approach?

Remember: STRU activities occur regularly throughout the City with virtually no issues. We are generally unaware of their operation and are only involved when there is a complaint about a disruption to the neighborhood. We are not staffed to proactively seek out identifying such uses and most jurisdictions adopt a "complaint driven" approach because of the difficulty of tracking these uses.

STRU ORDINANCE - COMPOSITE REVIEW
AUGUST 21, 2020 – UPDATED SEPTEMBER 8, 2020
Comments from CDCC, KC Tourism Office, Kent County Realtors, Council President Hare and Mayor.

CDCC – Central Delaware Chamber of Commerce
KCT - Kent County Tourism
KCR – Kent County Realtors
RC – Mayor Christiansen
WH - Council President Hare

Highlighted in Yellow – staff questions/suggestions

Version 4 – July 16

7/16 - General questions: use either "dwelling" or "property "throughout but not both? Require reinspection each year at renewal or only at the discretion of the City?

FOR CITY CLERK: July 1, 202

FINAL REVISED VERSION ORDINANCE 2020-05 – FOR CCOW AGENDA ON JULY 14

(Note: disregard any copies or versions prior to this date) BLUE IS NEW

Correct all typos throughout – mentioned by many reviewers.

AN ORDINANCE TO AMEND CHAPTER 22 OF THE CITY OF DOVER CODE OF ORDINANCES TO PERMIT AND REGULATE SHORT TERM RENTAL USE TO ENSURE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF; AND FURTHER TO AMMEND APPENDIX B, ZONING, ARTICLE 12, DEFINITIONS AND FURTHER TO AMEND ARTICLE IX, SECTION 22-281 LODGINGHOUSES.

Pert 1 - AMEND CHAPTER 22 BY ADDING DIVISION 3 SHORT TERM RENTAL USE (This entire part is new – might require a renumbering? Would be in blue)

DIVISION 3. SHORT TERM RENTAL USE

Section 22-353: Purpose; applicability; definitions; compliance

(a) Purpose: The City of Dover wishes to permit the limited and temporary rental use of single family residences in established areas of the City as an economic asset, allowing for increased travel, visitation and tourism and affording property owners of the opportunity to earn revenue from such occupancy, while ensuring that such uses do not become a nuisance, that neighborhood character is not compromised, and that such businesses are properly operated and maintained. The purpose of this Division shall be to minimize public safety risks and noise, trash and parking problems often associated with short-term rental uses; to ensure that traditional neighborhoods are not turned into tourist areas to the detriment of long-term residents; and to ensure that individual dwellings are not turned into pseudo hotels or party houses. KRC and CDCC: definition of pseudo hotel and party houses?

(b) Applicability: A Short Term Rental Use shall be allowed in any single-family zoning district (Option: list districts) in the City, but not allowed in any multi-family or apartment district. Such uses are allowed by right and do not require a variance or conditional use. Short Term Rental

Uses are not allowed in commercial or any other non-residential zones. CDCC, KCT and KCR questioned why only limited to single family dwellings. Staff suggested specifying zoning districts and/or building types and clarifying applicability to duplexes, townhouses, and other building types. Mayor suggests stricter requirements that STRU's must be granted a conditional use by PC/Council to be permitted - follow the provisions for B&B Inn as set forth Article 3, Section 2(e).

(c) Definitions:

1) *Good Neighbor Brochure* means a document provided by the owner to the guest or guests and containing: the name and telephone number for the owner; notification on standards of behavior and occupancy relating to parking, noise, trash collection, waste disposal, street maintenance, snow removal, and public safety services and including contact and web access information; and such other information as the City may for time to time prescribe.

2) *Guest* or guests means the individual or individuals securing the Short Term Rental Use for the purposes of staying overnight.

3) *Owner* means the person or persons holding legal or equitable title to the property being offered as a Short Term Rental Use.

4) *Short-term Rental Use (STRU)* means rental of all or part of a residential dwelling unit for a duration of occupancy of less than 30 days. Mayor suggested that there be a limit on the total number of days that an STRU can be rented (in a license period/ year). Council President Hare suggested creating an intermediate category addressing rentals of 60 days or more but of less than a year. These intermediate term rentals would not be limited to owner/residents but would address transient workers and others. A lease and inspection would be required (first two such inspections would be at no charge).

(d) Compliance: no person shall operate, offer for occupancy or let to another for occupancy as a Short Term Rental Use any dwelling which is not in compliance with this Article or any other applicable codes

Section 22-354: Registration and Inspection Requirements; Inspection required for life safety and building purposes. Short-Term Rental Use License Required.

a) The Owner of any dwelling proposed for a Short Term Rental Use must obtain an annual Short Term Rental Use license and pay a license fee as established by the City of Dover.
b) An inspection by the City of Dover Code Inspection Department shall be required to determine compliance with City Property Maintenance, Life Safety and Building Codes. Any items in non-compliance shall be remedied before a license shall be granted. (Question: annual reinspection required?) CDCC, KCT and KRC suggested inspection with first license but at the discretion of City thereafter.
c) The rental license must be kept current during anytime the dwelling is offered as a Short Term Rental Use.
d) The license shall be valid for up to one year and must be renewed no later than January 31 of each year of continued operation.
e) The Short Term Rental Use License must be clearly displayed inside the dwelling along with any state licenses or permits.

f) The Short Term Rental Use license may not be transferred to any party except heirs and assigns and shall be void upon transfer of ownership of the property where the Short Term Rental Use is located.
g) No uses otherwise not allowed in zone shall be permitted under the Short Term Rental Use license.

Mayor requested that all STRU properties must be sprinklered and have working central fire alarm system

Section 22-355: Owner obligations: An Owner of a dwelling seeking to use a property as a Short Term Rental Use shall comply with the following obligations:

a) The Owner of the property being offered as a Short Term Rental Use must be a resident of the City of Dover. Determination of residency shall be based on meeting City of Dover voting residency eligibility.

b) Such owner may offer for Short Term Rental Use a property which is:

I. the owner's primary residence or
II. one other property owned by the same person or persons, or
III. both, not to exceed two Short Term Rental Use properties owned by the same owner

NOTE: a) and b) below are replaced by the versions in yellow above. CDCC and KCR suggest that a non-resident owner be permitted to own and operate a STRU if there is a registered local agent (broker, property manager, etc.) identified who can represent the owner and respond to issues.

a) The Owner of the property being offered as a Short Term Rental Use must be a permanent legal (delete) resident of the City of Dover. Determination of residency shall be based on meeting City of Dover voting and/or school residency eligibility.

b) No more than one property in addition to the Owner's primary place of residence shall be offered for Short Term Rental Use.

c) A property not owned by a permanent legal (delete) resident of the City of Dover shall not be used as a Short Term Rental Use. Such property shall not be used for overnight accommodations unless such property qualifies as a Bed and Breakfast Inn pursuant to Dover Code, Appendix B – Zoning, Article 3, District Regulations. Council President Hare suggests an intermediate term rental of 60 or more days not restricted by the ownership/residency requirement.

d) A "Good Neighbor" brochure must be provided in the dwelling listing City provisions as required.

e) The Owner has the responsibility to not knowingly allow any illegal or criminal activity on the property, and failure to do so may be grounds for revoking the rental license and for any other applicable fees or penalties prescribed by Code.

Section 22-356: Limitations on occupancy and use: KCR: who inspects, how enforced? If City has strong anti-crime and noise ordinances, do we need items d) and i)?

a) The number of guests permitted at any time shall not exceed twice the number of bedrooms (i.e. 3 bedrooms x 2 = 6 occupants), with a maximum of 8 occupants at any one time regardless of number of bedrooms available KCT and CDCC suggested 10 or 12 to account for larger dwellings. Also questioned if children under 12 or some other age should be excluded from the occupancy count, use a matrix or formula to compute (also re: vehicles) that might be too high for many neighborhoods Mayor suggested a maximum of 5 unrelated persons during any rental.
b) No more than 1 extra vehicle per bedroom beyond the base number allowed in the zoning district, not to exceed 6 in total; all parking shall comply with all requirements relating to street maintenance, fire access, parking on paved surfaces, trash collection, obstacles to travel, etc. Violations shall be ticketed offenses.
c) Signage identifying the Short Term Rental Use, if desired, shall be limited to one sign, mounted on the dwelling, not illuminated, and not to exceed one (1) square feet in size overall. KRC and CDCC – clarify sign is optional, make permissive.
d) Quiet hours must be observed (10:00pm – 8:00am weeknights/12:00pm- 8:00am weekend nights).
e) No meals are to be provided or served but access to a kitchen is permitted as part of the rental. KCR – who cares? Delete or change to "Access to" striking reference to meals.
f) Access to a full bath must be provided.
g) Guests shall be prohibited from further subletting the dwelling.
h) Weddings, graduation parties, corporate events, commercial functions, large gatherings, or other special events shall be prohibited unless a City of Dover Special Event Permit shall have been granted for a specific activity and date.
i) The guests shall not create a public nuisance to include but not limited to creating noise, causing odors, permitting an unsafe condition, disorderly conduct, generation of trash, or other behavior which unreasonably disturbs the peace, safety and general welfare of the neighborhood. Large numbers of guests, parking, noise and trash are underlying concerns in one recurring property – what can be done to strengthen nuisance provisions and enhance enforcement.

Section 22-357. Enforcement, Fees and Penalties, Reporting

a) Payment of a Short Term Rental Use license fee is required annually beginning January 1 31 CDCC and KCR noted date inconsistency – January 31 used elsewhere of each year; the fee will be prorated for a partial year (the fee shall be set forth in Appendix F*)
b) Penalties and fines for poor management KRC objected to term "poor management" and suggested it be deleted or failure to register and obtain a license shall be as set forth in Appendix F.
c) A property cited three times as a nuisance or the location of illegal or criminal activity by any City department within any consecutive 12-month period shall have its Short Term Rental Use license suspended for not less than the rest of year or a longer period up to permanently. KCR questioned who makes the decision, clarification needed
d) The Owner shall be required to report to City as required annually documenting the occupancy and frequency of rentals obtained, such report to be due not later than January 31 of the following year. CDCC, KCR suggest making reporting voluntary (include questions

on license renewal form and clarify who receives report; clarify purpose to build databases, not for tax purposes.

*(suggesting - Annual License Fee of $50. KCR suggested it be $100 or same as other rental license fee Penalties for violation of $100 for first offense; $300 for second offence and $500 for any subsequent office or suspension of the license for 24 months or permanently). Mayor suggested STRU's be subject to lodging tax like other commercial lodging establishments.

Section 22-359 Enforcement, Notice and Appeals

Violations of this Division shall be as set forth in Section 22-XXX (whatever is already in Chapter 22 should be referenced here by section number)

Section 22-360 Severability (repeat wording or reference what is already in Chapter 22)

EFFECTIVE DATE: This Ordinance shall be effective upon adoption by the Dover City Council.

Part 2 - FURTHER AMEND APPENDIX B, ZONING, Article 12, DEFINITIONS: (Deletes in red, adds in blue)

Amend definition of family-

Family: One or more persons occupying a dwelling unit as a single nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, or more than one boarder or roomer, not related by blood, marriage or adoption, shall not constitute one family.

Part 3 – FURHER AMEND Article IX, Section 22-281, definition of lodginghouse –

Lodginghouse means a building operated principally for the temporary residence of the transient public, including but not limited to hotels, motels, inns, boardinghouses, rooming houses, tourist homes and dormitories.

SYNOPSIS

This Ordinance recognizes that Short Term Rental Uses are an economic asset, allowing for increased travel, visitation and tourism and affording property owners of the opportunity to earn revenue from such occupancy, while setting forth the purposes and establishing regulations to ensure that such uses do not create public safety risks or become nuisances. It restricts operation of Short Term Rental Uses to properties owned by a permanent resident of the City of Dover as defined by City of Dover voting and/or school residency eligibility. The Ordinance establishes an annual licensing process and sets forth owner's rules, responsibilities and obligations with limits on frequency of rental and occupancy. It provides safeguards to protect established neighborhoods, address nuisances, provide notice, and address complaints. It also includes provisions for reporting, enforcement and penalties for violations. Finally, it makes corrective amendments in the Code to ensure consistency.

Sponsors: Hare

Delaware's State University

THE ACQUISITION OF WESLEY COLLEGE

America’s Most Diverse, Contemporary HBCU Needs A Decade of Growth



THE HIGHER EDUCATION LANDSCAPE IS CHANGING

NEEDED: **Dynamic mix of 10,000 students with traditional, online, international, graduate, adult, & dual enrollment**

NECESSARY: Moving beyond traditional revenue models

$35MM RESEARCH PORTFOLIO

- CURRENT: $23 MM an R2 University/#6 among HBCUs
- COMMITTED: increase to $35 MM
- CONSTRAINTS: existing space inadequate for current talent

SIGNATURE PROGRAMS/MAJOR IMPACT

- Signature Academic Programs need space to grow
- Aviation, Nursing, Business, Education, STEM
- Centers as sources of revenue and social/economic impact
- Athletics space inadequate to support expansion

Wesley College: A Proud Tradition, Changing Times



- **Business Model for Small, Private Colleges has Dramatically Changed Since 2000**
  - Rising Expenses and Declining Enrollment
  - Over-reliance on traditional funding/recruitment models
- **Wesley College Assets**
  - All Academic Programs in Good Standing
  - Competitive Athletics
  - Strong Job Placement after Graduation
  - Drawn down Endowment rather than Accept a Large Debt

CATEGORY	Wesley College	Delaware State University
DIVERSITY	61% Students of Color	91% Students of Color
PERCENTAGE IN-STATE	57% In-State	55% In-State
IN-STATE TUITION	$26,406	$7,038
AVG ENTERING GPA	2.81	3.15
AVG ENTERING SAT	948	920
MEDIAN FAMILY INCOME	$52,486	$48,000
PERCENTAGE ON FINANCIAL AID	97%	96%
NUMBER OF STUDENT ATHLETES	353 (235 M, 118 F)	330 (178 M, 152 F)
LARGEST MAJORS	NURSING, EXERCISE SCIENCE, BUSINESS ADMINISTRATION, MASTERS OF OCCUPATIONAL THERAPY, PSYCHOLOGY, CRIMINAL JUSTICE (LAW AND JUSTICE STUDIES)	NURSING, PSYCHOLOGY, CRIMINAL JUSTICE, BUSINESS, MASS COMM

WESLEY at a Glance



Real Estate

- 20 Buildings on 50 Acre Campus
- $32.5 MM Real Estate Appraisal Value
- $14 MM Deferred Maintenance

Budget

- $22 MM Operating Revenue
- $18.8 MM in net student income

Debt

- $5 MM Leveraged Debt (Wilmington Trust)
- $2.5 MM Line of Credit (Wilmington Trust)
- $2.6 MM Per Year (Lease for 2 Dorms)

What Problems Does Acquisition Solve?

Dover: “University Town”

- Increased workforce development & business incubation

Potential Home for ECHS

- Grow enrollment/complete campus immersion

Expand Signature Academic/Athletic programs

Grow Research & Centers for more Diversified Revenue Base

Facility Space for Growing Enrollment

DEFINITIVE AGREEMENT

Delaware State University to Acquire Wesley College

Official Start Expected in 2021

- Secure sufficient resources outside our normal operating revenue to manage the acquisition.
- Obtain approval from the Middle States Commission on Higher Education (MSCHE).
- Coordinate Wesley College FY 21 operating expenses
- Build a successful transition plan that serves the needs of all students and ensures the University's long-term financial stability and growth must be developed.

MSCHE
MIDDLE STATES COMMISSION ON HIGHER EDUCATION

Date	Activity
July 27	Complex Substantive Change Preliminary Review Form
July 29	Consultation with MSCHE Staff Liaison and Institutions
August 31	Formal Complex Substantive Change Request Due
September 1–4	MSCHE review of materials
September 7	MSCHE identifies peer evaluators
September 15	Peer Reviewers Begin
September 24	Materials sent for legal review
October 14	Deadline for request of additional information, as needed
October 26	Legal review completed
October 31	Final date for the institution to provide additional information, as needed
November 1–9	Peer evaluators review additional information
November 13	Peer evaluators upload report
November 23	Institution uploads formal response
By December 4	Peer Evaluators upload Confidential Brief
January 28, 2021	Meeting of MSCHE Committee on Follow-up
March 4	MSCHE Commission meeting
If approved	Verification of transaction and other approvals

ENROLLMENT PROJECTIONS

	Fall 2020	Fall 2021		Fall 2022		Fall 2023		Fall 2024		Fall 2025	
DSU											
Undergraduate	5,094	5,394		5,694		5,994		6,294		6,594	
Growth		300	5.9%	300	5.6%	300	5.3%	300	5.0%	300	4.8%
Graduate	457	503		553		609		670		737	
Growth		46	10.1%	50	9.9%	56	10.1%	61	10.0%	67	10.0%
TOTAL ENROLLMENT	**5,551**	**5,897**		**6,247**		**6,603**		**6,964**		**7,331**	
Growth		346	6.2%	350	5.9%	356	5.7%	361	5.5%	367	5.3%
DSU/Wesley Campus											
Undergraduate				200		400		700		1,000	
Growth				200		200	100%	300	75.0%	300	42.9%
Graduate				130		170		190		210	
Growth				130		40	30.8%	20	11.8%	20	10.5%
TOTAL ENROLLMENT				**330**		**570**		**890**		**1,210**	
Growth				330		240	72.7%	320	56.1%	320	36.0%
DSU System											
Undergraduate	5,094	5,394		5,894		6,394		6,994		7,594	
Growth		300	5.9%	500	9.3%	500	8.5%	600	9.4%	600	8.6%
Graduate	457	503		683		779		860		947	
Growth		46	10.1%	180	35.8%	96	14.1%	81	10.4%	87	10.1%
TOTAL ENROLLMENT	**5,551**	**5,897**		**6,577**		**7,173**		**7,854**		**8,541**	
Growth		346	6.2%	680	11.5%	596	9.1%	681	9.5%	687	8.7%

A Critical Leap Forward

Delaware State University: the 21st Century Model HBCU

- No other HBCU in America has experienced our growth to date
- What worked 2009-2019 changes in 2020-2029

Bigger Economic Development Driver for Delaware

- Immediate Economic Impact with additional 1,000 students & facilities increases from $266 MM to $314 MM Statewide

Academic/Research Programs Expand Immediately

- Influx of students to Nursing, Education, Business, Psychology
- Laboratory increase removes capacity constraint on grant awards

Increased Fiscal Stability from more Diversified Revenue

- State/Federal/Private Workforce Grants with Greater Capacity
- Expanded Dual Enrollment Capacity drives DEDOE funding
- Increased capacity to host/diversify International programs

COMMITTEE ACTION FORM

PROCEEDING: Council Committee of the Whole - Parks, Recreation, and Community Enhancement
DEPARTMENT OF ORIGIN: Library **DATE SUBMITTED**: Sept. 4, 2020
PREPARED BY: Brian Sylvester, Library Director
SUBJECT: Library Reopening Plan
REFERENCE: N/A
RELATED PROJECT: N/A
REVIEWED BY: Matthew Harline, Assistant City Manager
EXHIBITS: None
EXPENDITURE REQUIRED: No additional funds **AMOUNT BUDGETED**: $0.00 **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIME TIMETABLE: See below
STAFF RECOMMENDATION: Staff proposes opening a temporary computer lab beginning Sept. 28 with a partial capacity re-opening on Oct 26. ***If the Committee is in agreement the Committee should direct staff to proceed and revisit the reopening plan Oct. 20.***

BACKGROUND AND ANALYSIS

The Dover Public Library closed to the public on Saturday, March 14th at the beginning of the COVID-19 pandemic. The closing was in part due concern for public health, but there were also public safety concerns. In the six months since Dover Public Library closed, numerous physical renovations and policy changes have been implemented to clean the Library, the reduce the chance of spreading disease in the Library, and to improve the safety of our patrons.

During the closure to the public, Library staff have implemented a curbside service to provide access to the collection and shifted their popular children's, teen, and adult programming to a virtual environment, but have been unable to provide access to computers for residents without internet access in their homes. To address this gap, the Library staff is proposing:

- Temporary Computer Lab: Recommended opening – Sept 28. Tues – Fri. 1 p.m. – 3 p.m. Patrons may visit to use computers and print for one hour per day, by appointment.
    - During this same time window, the Passport Center is open by appointment for passport services
    - To adequately staff the Computer Lab, appointments will not be offered during Curbside service
    - Temporary Computer Lab to be located in Meeting Room A and, if demand permits, Meeting Room B on the ground floor of the Library
    - During Temporary Computer Lab hours, the security gate in the Lobby of the Library will be down and locked, to prevent unauthorized access to the collection and remainder of the building
    - Temporary computer lab service hours can be expanded or retracted to meet demand
    - Temporary computer lab appointments to be offered until the Library re-opens to the public.

- Grand Reopening: Recommend – Oct 26 (to coincide with the resumption of hybrid in-person schooling at Capitol School District), Tuesday through Friday, 10 AM to 6 PM and Sat, 10 AM to 2 PM.
    - Public Meeting Rooms unavailable (due to use as quarantine space for returned library materials) until such time as quarantine is no longer necessary, and offered at 60% capacity afterward.
    - Job Center computers used as overflow computer access, to offer more computers while maintaining social distancing.
    - Passport Center open by appointment with the option of allowing walk ins at staff discretion
    - As demand for services increases and COVID-19 conditions permitting, Library will incrementally increase hours of operation back to pre-COVID levels (Mon. – Fri. 9 a.m. – 7:55 p.m.; Sat. 10 a.m. – 4:55 p.m.; Sun. 1 p.m. – 4:55 p.m), and resume use of meeting rooms at full capacity.
- The Library is committed to a safe re-opening and is requesting that the Council review the re-opening plan on Oct. 20th to ensure that current COVID-19 conditions do not prohibit safely resuming in-person services.