

*"A Historic Past"*



*"A Bright Future"*

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

**Ordinance No. 13- 0128-02**

**ORDINANCE TO ESTABLISH A VACANT PROPERTY REGISTRATION PROGRAM  
FOR THE CITY OF DELAWARE CITY**

**Chapter 22 – Property Management**

**The City of Delaware City**

**WHEREAS**, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code; and

**WHEREAS**, the Mayor and City Council believe establishing vacant property registration program is in the best interest of the City of Delaware City; and

**WHEREAS**, to establish a vacant property registration program, the Mayor and City Council desire to adopt Chapter 22, § 22-8 and its subparts as part of the City of Delaware City Code as set forth below ("Proposed Code Sections"); and

**WHEREAS**, pursuant to Article V, Section 5-02(B) of the Charter, the Proposed Code Sections were introduced by a member of Council at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City.

**NOW, THEREFORE**, the Mayor and the City Council of The City of Delaware City hereby ordain:

**Section 1.** Chapter 22, Section 22-8 of the Delaware City Code, upon an affirmative vote of the City Council, is hereby adopted and shall read as follows:

**Section 22-6 Registration of Vacant Properties**

- a.) **Purpose.** The purpose of this section requiring the registration of all vacant buildings, dwellings, and mobile dwelling units, and the payment of registration fees is to protect the public health, safety and welfare, to monitor the number of vacant properties in the City, to assess the effects of these buildings on nearby businesses and the neighborhoods - particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require the owners of vacant buildings to register and pay the related costs, and to promote substantial efforts to rehabilitate vacant buildings. The provisions of this section are applicable to all owners of vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, and any other provisions of the applicable law.
- b.) **Vacancy.** A building, a dwelling, a mobile dwelling, or any other structure shall be deemed vacant if no person actually or currently conducts a lawfully licensed business, or lawfully resides in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent/non-transient basis.
- c.) **Applicability.** The requirements of this section shall be applicable to each owner of any building or residential property consisting of one or more dwellings that shall have been vacant for more than sixty (60) consecutive days. Each owner shall file a notarized registration statement, which shall include the street address and parcel number of each vacant building, the names and addresses of all owners, and any other information deemed necessary by the City Manager. First-time registrants must pay their annual vacant property registration fee as required by subsection 22-8(e) of this section contemporaneously with the submission of their registration statement.
- d.) **Registration Statement.** Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for sixty (60) consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fee be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code, housing code or property maintenance requirement. One registration statement may be filed to include all vacant buildings belonging to a single owner, however, a separate registration fee as required by subsection 22-8(e) must be paid for each vacant property. The owner of

the vacant property as of November 1 of each calendar year shall be responsible for the payment of the non-refundable registration fee on January 1 of each year.

- e.) **Registration Fees.** The annual vacant property registration fee shall be non-refundable and shall be set at \$100.00. Failure to timely register or pay the registration fee shall result in a fine of \$25.00 each month the vacant property remains unregistered.
  
- f.) **Appeal Rights.** The owner shall have the right to appeal the imposition of the registration fee to Board of Adjustments, upon filing an application in writing with the applicable \$50.00 non-refundable filing fee no later than thirty (30) calendar days from the date the registration fee is due. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy.
  
- g.) **One-time Waiver of Registration Fee.** A one-time waiver of the registration fee, or an extension of a waiver for up to twelve (12) months from the date of the billing statement immediately following the waiver, may be granted by the City Manager within 30 calendar days from the date the registration fee is due, if the owner:
  - 1. Demonstrates with satisfactory proof to the City Manager that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and
  - 2. Objectively demonstrates to the City Manager the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or
  - 3. Provides satisfactory proof to the City Manager that he/she is actively attempting to sell or lease the property during the vacancy period; and
  - 4. Has paid all past due vacant registration fees and all other financial obligations and/or debts owed to The City of Delaware City which are associated with the vacant property, including, but not limited to, those obligations enumerated in Title 25, Section 2901 of the Delaware Code.
  - 5. With regard to an extension of a waiver only, the time period of the extension shall commence from the date when the payment is due and, in no event, shall the extension exceed 12 months. An extension of a waiver shall only be granted once.

h.) **Delinquent Registration Fees as a Lien.** After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection 22-8(f) above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the City, and the City may commence a civil action to collect such unpaid debt.

**Section 2.** **Inconsistent Ordinances and Resolutions Repealed.** All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.


**Section 3.** **Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

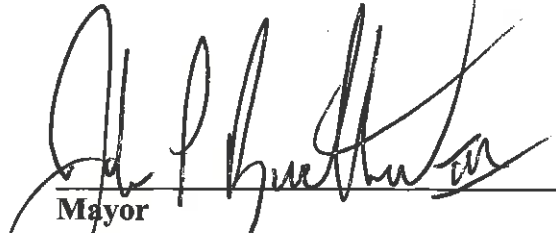
**Section 4.** **Effective Date.** This Ordinance shall become effective in ninety (90) days upon its adoption by a majority vote of the City Council.

**(SIGNATURE PAGE TO FOLLOW)**

ADOPTED BY THE MAYOR AND COUNCIL, this 25<sup>th</sup> day of February, 2012.


ATTEST:


  
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City Secretary

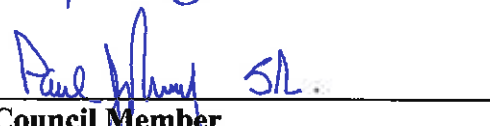
  
\_\_\_\_\_  
Mayor


APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Solicitor

  
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Council Member

  
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Council Member

  
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First Reading on 1/28/13,

Second Reading and Final Passage on 2/25/13.