

CITY OF DOVER ORDINANCE #2021-18

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

That Chapter 102 - Taxation, Article I – In General of the Dover Code be amended to read as follows:

Section 102-1 - Valuation and assessment.

Section 47 of the Charter provides that an impartial valuation and assessment of all real property within the city may be conducted by the city assessor or assessors. The council may also direct that in lieu of the assessment and valuation by the city assessor, a reassessment and revaluation may be done by the assessor or assessors or an outside mass appraisal company or a consortium of appraisers chosen by the council. Such contractor and tax office staff will be under the supervision of the City Manager or his/her designee.

Commencing with the year 2010 and every fifth year thereafter, unless otherwise directed, the revaluation and reassessment of all real property may be conducted, under the supervision of the assessor or in conjunction with the assessor and/or the city manager or his/her designee, by an outside mass appraisal company or a consortium of appraisers chosen by the council. The mass appraisal company or consortium of appraisers shall be licensed to conduct business in the State of Delaware and the City of Dover and shall employ appraisers who are licensed by the Delaware Division of Professional Regulations. All property shall be valued as to its status; as of its ownership; as of its current market value as of the January 1 assessment date and shall reflect fair market value.

(Code 1981, § 19.5-1; Ord. of 1-22-2001; Ord. No. 2009-17, 11-9-2009; Ord. No. 2010-01, 2-14-2011; Ord. No. 2011-31, 4-9-2012)

Section 102-2. Delinquent property tax collection costs.

- (a) If an action to collect delinquent property taxes is filed in a court of appropriate jurisdiction, a fee as provided for in Appendix F—Fees and Fines shall be added to the amount due.
- (b) If an action proceeds and a writ of venditioni exponas monition or similar execution process is filed, an additional fee as provided for in Appendix F—Fees and Fines shall be added to the amount due.
- (c) The fees established by this section shall be in addition to court costs and service fees assessed by state or county offices.

(Code 1981, § 19.5-46; Ord. of 11-24-1997; Ord. No. 2009-09, 6-22-2009)

Section 102-3. Administrative reporting.

The city assessor shall be selected in accordance with the City Charter, and shall be directly responsible to the mayor and council. The city council may appoint the city manager or his/her designee as the city assessor to provide supervision and support to the tax office. If the appointed assessor is not certified with the State of Delaware, the city council shall hire an approved contractor licensed by the State of Delaware professional regulations to provide assessment services.

(Ord. of 7-24-2006(2); Ord. No. 2009-25, 11-9-2009)

Section 102-4. Omitted real property assessments.

- (a) *Definition: Omitted assessment.* Land or improvements not valued and assessed or included on the assessment rolls or billed due to, but not limited to, the following reasons: computer error, clerical errors, conversion of software or records; missing building permits, failure to issue temporary and final certificates, errors in the preparation of the annual and supplemental tax rolls and billing by any employee or contractor working for the city.
- (b) *Collection of taxes.* The failure to receive a bill or receive an accurate bill does not relieve the taxpayer of the obligation to pay taxes. The city assessor, city manager or his/her designee, or contractor shall cause for the collection of any and all taxes due for the respective years or any supplemental tax periods that may result from omitted assessments. The omitted assessments shall be applicable and consistent with and shall apply to every assessment of taxes for the previous year or years and to the collection of the taxes.
- (c) *Periods covered, and penalties.* Errors that cause an inaccurate assessment or billing can be corrected and the correction shall be applied. Every such omitted assessment shall be collected retroactively for a period of ten years, in addition to the current tax year, prior to the discovery by the city assessor, city manager or his/her designee, or contractor of omitted assessments. The city shall add a penalty of one and one-half percent per month for each respective month not assessed unless it is evident that there was no prior knowledge of the omitted assessment by the property owner.
- (d) *Notice; required.* The city assessor, city manager or his/her designee, or contractor shall give notice of any proposed omitted assessment of any real property for any previous tax year or years or supplemental tax periods, to all persons liable to the tax. The notice shall contain a general description, according to Kent County Property Identification Numbering system (PIN), of the real estate and state the year or years for which the real estate is liable to assessment, the name or names of the person or persons liable to assessments or reassessments, according to the legal owners of record on file with the Kent County Recorder of Deeds, and further the value of the assessment. Notice of "omitted assessments" shall be by certified mail, return receipt requested and regular United States postal mail service within 30 days of discovery of any omitted assessment.
- (e) *Appeal.* Appeals for omitted assessment shall be the same as general and supplemental assessments appeals.

(Ord. of 9-10-2007)

Section 102-5. Income and expense reports.

The assessor, city manager or his/her designee, or contractor shall request that an annual report of income and expenses be completed and filed for all commercial/industrial income-producing property within the city limits of Dover. The income and expense report forms shall be developed and provided by the assessor. This information will become mandatory if the owner of the commercial/industrial income-producing property petitions for appeal.

(Ord. No. 2009-05, 7-27-2009; Ord. No. 2009-27, 12-14-2009; Ord. No. 2011-19, 8-8-2011)

Secs. 102-6—102-30. Reserved.

BE IT FURTHER ORDAINED:

That Chapter 102 – Taxation, Article II – Land Used for Agricultural, Horticultural, and Forest Purposes 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:

Section 102-31. Valuation.

For general property tax purposes, the value of land not less than five acres in area, which is actively devoted to agricultural, horticultural or forest use and which has been so devoted for at least the two successive years immediately preceding the tax year in issue, shall, on application of the owner, and approval thereof as provided in this article, be that value which such lands have for agricultural, horticultural or forest use; provided, however, that land qualifying hereunder shall not be subject to taxation.

(Code 1968, § 34-1; Ord. of 3-26-1979; Code 1981, § 19.5-11; Ord. of 3-14-1988)

Section 102-32. Agricultural use land.

Land shall be deemed to be in agricultural use when devoted to the production, for sale, of plants and animals useful to man, including, but not limited to, forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

(Code 1968, § 34.2; Ord. of 3-26-1979; Code 1981, § 19.5-12)

Section 102-33. Horticultural use land.

Land shall be deemed to be in horticultural use when devoted to the production, for sale, of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government.

(Code 1968, § 34-5; Ord. of 3-26-1979; Code 1981, § 19.5-13)

Section 102-34. Forest use land.

Land shall be deemed to be in forest use when devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area.

(Code 1968, § 34-4; Ord. of 3-26-1979; Code 1981, § 19.5-14)

Section 102-35. Criteria for land use.

Land shall be deemed to be actively devoted to agricultural or horticultural use when the gross sales of agricultural or horticultural products produced thereon, together with any payments received under a soil conservation program, have averaged at least \$500.00 per year during the two-year period immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$500.00 within a reasonable period of time.

(Code 1968, § 34-5; Ord. of 3-26-1979; Code 1981, § 19.5-15)

Section 102-36. Eligibility for valuation, assessment and taxation.

Land which is actively devoted to agricultural, horticultural or forest use shall be eligible for valuation, assessment and taxation as provided in this article when it meets the following qualifications:

- (1) *Time.* It has been so devoted for at least the two successive years immediately preceding the tax year for which valuation under this section is requested;
- (2) *Area.* The area of such land is not less than five acres; and
- (3) *Time of application.* Application by the owner of such land for valuation under this section is submitted on or before February 1 of the year immediately preceding the tax year to the city assessor or contractor on a form prescribed by the city assessor, city manager or his/her designee, or contractor.

(Code 1968, § 34-6; Ord. of 3-26-1979; Code 1981, § 19.5-16)

Section 102-37. Assessment procedures.

- (a) *Valuing land.* The city assessor or contractor under the supervision of the city manager or his/her designee, in valuing land which qualifies as land actively devoted to agricultural, horticultural or forest use under the tests prescribed by this article, and as to which the owner thereof has made timely application for valuation, assessment and taxation under this article for the tax year in issue, shall consider only those indicia of value which such land has for agricultural, horticultural or forest use. In addition to use of his personal knowledge, judgment and experience as to the value of land in agricultural, horticultural or forest use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural or forest capability.
- (b) *Area.* In determining the total area of land actively devoted to agricultural, horticultural or forest use, there shall be included the area of all land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities, but land under and such additional land as may be actually used in connection with the farmhouse, shall be excluded in determining such total area.
- (c) *Structures.* All structures which are located on land in agricultural, horticultural or forest use, and

the farmhouse and the land on which the farmhouse is located, together with the additional land used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district.

(d) *Rollback taxes.*

(1) When land in agricultural use and being valued, assessed and taxed under the provisions of this article is applied to a use other than agriculture, it shall be subject to additional taxes, hereinafter referred to as "rollback taxes," in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued, assessed and taxed as other land in the city, in the current tax year immediately preceding, in which the land was valued, assessed and taxed hereunder.

(2) If, in the tax year in which a change in use of land occurs, the land was not valued, assessed, and taxed under this article, then such land shall be subject to rollback taxes in the following manner:

a. If the change of the use of land occurs prior to January 1, 1996, then such land shall be subject to rollback taxes for the five tax years immediately preceding in which the land was valued, assessed, and taxed hereunder.

b. If the change in use of land occurs between January 1, 1996, and December 31, 1996, then such land shall be subject to rollback taxes for the six tax years immediately preceding in which the land was valued, assessed and taxed hereunder.

c. If the change in use of land occurs between January 1, 1997, and December 31, 1997, then such land shall be subject to rollback taxes for the seven tax years immediately preceding in which the land was valued, assessed, and taxed hereunder.

d. If the change in use of land occurs between January 1, 1998, and December 31, 1998, then such land will be subject to rollback taxes for the eight years immediately preceding in which the land was valued, assessed, and taxed hereunder.

e. If the change in use of land occurs between January 1, 1999, and December 31, 1999, then such land shall be subject to rollback taxes for the nine tax years immediately preceding in which the land was valued, assessed, and taxed hereunder.

f. If the change in use of land occurs on January 1, 2000, or thereafter, then such land shall be subject to rollback taxes for the ten tax years immediately preceding in which the land was valued, assessed, and taxed hereunder.

(3) In determining the amounts of the rollback taxes chargeable on land which has undergone a change in use, the city assessor or contractor under the supervision of the city manager

or his/her designee shall, for each of the rollback tax years involved, ascertain:

- a. The full and fair value of such land under the valuation standard applicable to other land in the city;
- b. The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined by the city assessor or contractor under the supervision of the city manager or his/her designee; and
- c. The amount of the rollback tax for that tax year by multiplying the amount of the additional assessment determined under subsection (d)(3)b. of this section by the general property tax rate of the city applicable for that tax year.

(e) Land condemned, etc. Land condemned or otherwise acquired for a public purpose by the state or any other public authority having condemnation powers shall not be considered a change in use and shall not be subject to rollback taxes as provided in subsection (d) of this section.

(Code 1968, § 34-7; Ord. of 3-26-1979; Code 1981, § 19.5-17; Ord. of 3-14-1988; Ord. of 4-22-1996)

Section 102-38. Annual review.

- (a) *Application.* Eligibility of land for valuation, assessment and taxation under this article shall be determined for each tax year separately. An application shall be submitted by the owner to the city assessor, city manager or his/her designee, or contractor on or before February 1 of the year immediately preceding the tax year for which such valuation, assessment and taxation are sought; provided, however, that unless the land usage changes, those applications which have met the provisions to qualify under this article shall be automatically renewed without the owner having to apply annually.
- (b) *Change in land use.* If the land usage changes, the farm owner shall, on or before February 1 of the year in which the land usage changes, notify the city assessor, city manager or his/her designee, or contractor of the change in land use.

(Code 1968, § 34-8; Ord. of 3-26-1979; Code 1981, § 19.5-18)

Section 102-39—102-70. Reserved.

BE IT FURTHER ORDAINED:

That Chapter 102 – Taxation, Article III – Realty Transfer Tax of the Dover Code, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikethrough as follows:

Section 102-71. Definitions.

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

- (1) Document means any deed, instrument or writing whereby any real estate within the corporate limits of the city, or any interest therein, shall be quitclaimed, granted, bargained, sold or otherwise conveyed to the grantee, but shall not include the following:
- a. Any will;
 - b. Any lease other than those described or defined in subsection (a)(2) of this section;
 - c. Any mortgage;
 - d. Any conveyance between corporations operating housing projects pursuant to 31 Del. C. § 4501 et seq., and the shareholders thereof;
 - e. Any conveyance between nonprofit industrial development agencies and industrial corporations purchasing from them;
 - f. Any conveyance to nonprofit industrial development agencies;
 - g. Any conveyance between a husband and wife;
 - h. Any conveyance between persons who were previously husband and wife, but who have since been divorced, provided that such conveyance is made after the granting of the final decree in divorce and the real estate or interest therein subject to such conveyance was acquired by the husband and wife, or husband or wife prior to the granting of the final decree in divorce;
 - i. Any conveyance between parent and child or the spouse of such a child;
 - j. Any conveyance:
 - 1. To a trustee, nominee or straw party for the grantor as beneficial owner;
 - 2. For the beneficial ownership of a person, other than the grantor, where, if such person were the grantee, no tax would be imposed upon the conveyance pursuant to this chapter; or
 - 3. From a trustee, nominee or straw party to the beneficial owner;
 - k. Any conveyance between a parent corporation and a wholly owned subsidiary corporation, provided that such conveyance is without actual consideration;
 - l. Correctional deeds without actual consideration;
 - m. Any conveyance to or from the United States, this state or to any of their instrumentalities, agencies or political subdivisions and the University of Delaware;

- n. Any conveyance to or from a corporation, or a partnership, where the grantor or grantee owns stock of the corporation or an interest in the partnership in the same proportion as his interest in, or ownership of, the real estate being conveyed; provided, however, that this subsection shall not apply to any distribution in liquidation or other conveyance resulting from the partial or complete liquidation of a corporation, unless the stock of the corporation being liquidated has been held by the grantor or grantee for more than three years; provided, further, this subsection shall not apply to any conveyance from a partnership to its partners, unless the partners' interest in the partnership has been held for more than three years;
 - o. Any conveyance by the owner or previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises are taken in trade by such builder as a part of the consideration from the purchaser of new, previously unoccupied premises;
 - p. Any conveyance to the lender holding a bona fide mortgage, which is genuinely in default, either by a sheriff conducting a foreclosure sale, or by the mortgagor in lieu of foreclosure;
 - q. Any conveyance to a religious organization or other body or person holding title to real estate for a religious organization, if such real estate will not be used following such transfer by the grantee, or by any privy of the grantee, for any commercial purpose; provided, however, that only that portion of the tax which is attributable and payable by the religious organization or other body or person holding title to real estate for a religious organization under 30 Del. C. § 5402 shall be exempt;
 - r. Any conveyance to or from a volunteer fire company organized under the laws of this state; provided, however, that only that portion of the tax which is attributable to and payable by the volunteer fire company by this article shall be exempt;
 - s. Any conveyance of a "mobile home" or "manufactured home," as defined in 25 Del. C. § 7003;
 - t. Any conveyance without consideration to an organization exempt from tax under section 501(c)(3) of the federal Internal Revenue Code (26 USC 501(c)(3));
 - u. Any conveyance to a nonprofit conservation organization, when the property is purchased for open space preservation purposes;
 - v. Any conveyance to or from a nonprofit corporation or organization of real estate acquired for the purpose of rehabilitation and resale without profit.
- (2) *Document* includes the following:
- a. Any writing purporting to transfer a title interest or possessory interest for a term of more than five years in a condominium unit or any unit properties subject to the

Unit Property Act pursuant to 25 Del. C. § 2201 et seq.

- b. Any writing purporting to transfer a title interest or possessory interest of any lessee or other person in possession of real estate owned by the state or other political subdivision thereof.
 - c. Any writing purporting to assign or transfer a leasehold interest or possessory interest in residential property under a lease for a term of more than five years. For this purpose, the term "residential property" means any structure or part of a structure which is intended for residential use, and excluding any commercial unit subject to tax under 30 Del. C. § 2301(a)(88) relating to commercial lessors.
- (3) *First-time homebuyer* means a natural person who has at no time held an interest in residential real estate, wherever located, and which has been occupied as their principal residence, and who intends to occupy the property being conveyed as his principal residence, within 90 days following recordation of the deed. The first-time homebuyer must file an affidavit certifying to his qualifications before the exemption can be granted. In order to alleviate claims for rebate of the transfer tax paid, no rebate shall be made once the deed for the transaction has been recorded. First-time homebuyers submitting a false affidavit in any respect, which would entitle them to the exemption, shall be subject to payment of the unpaid transfer tax, plus interest at the rate of one and one-half percent per month and, upon direction by the council, referral to the attorney general of the state for criminal prosecution. This subsection shall apply to all real estate settlements held on or after January 2, 2000. First-time homebuyers are exempt from the transfer tax as provided herein. The first-time homebuyer exemption shall apply to the seller of property that qualifies for the first-time buyer exemption but only for property located within the downtown redevelopment high priority target area defined in Appendix C. Council shall have the right to deny this exemption to any property owner where the sale and purchase appears to be done fraudulently to take advantage of the realty transfer tax exemption ordinance.
- (4) *Transaction* means the making, executing, delivering, accepting or presenting for recording of a document.
- (5) *Value* means, in the case of any document granting, bargaining, selling or otherwise conveying any real estate or interest or leasehold interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon, and ground rents which encumber the interest in real estate and any other interest in real estate conveyed, provided, that, in the case of a transfer for an amount less than the highest appraised full value of said property for local real property tax purposes, the term "value" shall mean the highest such appraised value, unless the parties or one of them can demonstrate that fair market value is less than the highest appraised value, in which case, the term "value" shall mean fair market value, or actual consideration, whichever is greater. A demonstration that the transaction was at arm's length between unrelated parties shall be sufficient to demonstrate that the transaction was at fair market value.
- (b) In determining the term of a lease, it shall be presumed for the purpose of computing the lease

term, that any rights or options to renew or extend will be exercised.

- (c) For the purpose of subsection (a)(5) of this section, in the case of a document described in subsection (a)(2) of this section under which the consideration is based, in whole or in part, on a percentage of the income or receipts to be received in the future, actual consideration shall include the amounts actually received under such percentage of income or receipts provision; provided, however, and notwithstanding any other provisions of this article, that the tax imposed by this article shall be due and payable to the controller/treasurer within 30 days after the date such amounts become due and payable under the agreement.
- (d) Transfers through conveyance of interest.
 - (1) Except as provided in subsections (d)(2) and (3) of this section, where beneficial ownership in real estate is transferred through a conveyance or series of conveyances of intangible interests in a corporation, partnership or trust, such conveyance shall be taxable under this article as if such property were conveyed through a duly recorded "document" as defined in subsection (a)(1) of this section, and subject to the exemptions contained therein, except those exemptions contained in subsections (a)(1)j. and (a)(1)n. of this section.
 - (2) No bona fide pledge of stock or partnership interests as loan collateral, nor any transfer of publicly traded stock or publicly traded partnership interest shall be deemed subject to taxation under this subsection (d).
 - (3) Where the beneficial owners of real property, prior to the conveyance or series of conveyances referred to in this subsection (d), own 80 percent or more of the beneficial interest in the real estate following said conveyance or series of conveyances, such transfers shall not be subject to tax under this subsection (d). Where the beneficial owners of real property, prior to the conveyance or series of conveyances referred to in this subsection (d), own less than 80 percent of the beneficial interest in the real estate following said conveyance or series of conveyances, such transfers shall not be subject to tax under this subsection (d), unless under regulations promulgated by the city assessor, city manager or his/her designee, or contractor, such transfer or transfers are properly characterized as a sale of real property. Such characterization shall take into account the timing of the transaction, beneficial ownership prior to and subsequent to the conveyance or conveyances, the business purpose of the corporation, partnership or trust, and such other factors as may be relevant.

(Code 1981, § 19.5-19; Ord. of 6-27-1988; Ord. of 4-22-1996; Ord. of 8-10-1998; Ord. of 12-13-1999; Ord. of 8-8-2005(1); Ord. No. 2009-23, 10-26-2009; Ord. No. 2011-17, 8-8-2011; Ord. No. 2015-03, 2-23-2015; Ord. No. 2016-16, 8-8-2016)

Section 102-72. Applicability to certain construction.

- (a) "*Document*" defined. Notwithstanding section 102-71, there shall be included in the definition of the term "document," for purposes of this article, any contract, or other agreement or undertaking for the construction of all or a part of any building all or a portion of which contract, agreement or undertaking (or any amendment to the foregoing) is entered into, or labor and materials are

supplied, either prior to the date of the transfer of the land on which the building is to be constructed or within one year of the date of the transfer to the grantee.

- (b) *Building permit.* No building permit shall be issued unless and until the person or persons (including corporations and/or other associations) requesting such permit shall demonstrate, in whatever form may be specified by the city assessor, city manager or his/her designee, or contractor including, at his discretion, a form of affidavit, that:
 - (1) No transfer as described in this section has occurred within the preceding year;
 - (2) No portion of the contract for construction for which the permit is being requested was entered into and no materials or labor with respect to the building have been provided within one year of the date on which the property was transferred; or
 - (3) There has been paid a realty transfer tax on the document as defined in this section.
- (c) *Certificate of occupancy.* In addition, no certificate of occupancy shall be issued relative to any building on which a tax is provided by this section, unless and until the owner recertifies the actual cost of the building and pays any additional tax due as a result of such recertification.
- (d) *"Building" defined.* The term "building," for purposes of this section, shall mean any structure having a roof supported by columns or walls, which structure is intended for supporting or sheltering any use or occupancy, but shall not include any alteration of or addition to an existing building where the cost of such alteration or addition is less than 50 percent of the value of the property transferred.
- (e) *"Transfer" defined.* The term "transfer," for purposes of this section, shall include any transfer made by a "document" as defined in section 102-71, and shall not include any transaction excluded from the definition of the term "document."
- (f) *Inventory for resale.* This section shall not apply to the application for a building permit by a builder or developer who acquires the land and obtains the permit for the purpose of including the land with improvements in the builder's or developer's inventory for resale.
- (g) *Rate of certain tax.* Notwithstanding section 102-73, the rate of tax on documents described in subsection (a) of this section shall be one percent on amounts exceeding \$10,000.00, which shall be borne by the owner of the building whose construction is made subject to tax under subsection (a) of this section.

(Code 1981, § 19.5-19.1; Ord. of 4-22-1991)

Section 102-73. Levied; exemptions.

- (a) *Rate.* Every person who makes, executes, issues or delivers any document, or in whose behalf any document is made, executed, issued or delivered, shall pay therefor and in respect thereof, or for and in respect of the vellum, parchment or paper upon which such document is written or printed, a tax at the rate of 1½ percent of the value of the property represented by such document, which

tax shall be payable at the time of the making, execution, issuance or delivery of such document, and said tax is to be apportioned equally between the grantor and grantee, unless otherwise provided for by agreement of the parties.

- (b) *Nominee for grantee.* Where a person acquires title to any lands, tenements or hereditaments as a nominee or as a straw party for the real grantee or purchaser, the transfer of such title by such nominee or straw party to the real grantee or purchaser shall be exempt from this tax.
- (c) *Nominee for grantor.* Where a person acquires title to any lands, tenements or hereditaments for the purpose of holding the same as a nominee or as a straw party for the grantor, such transfer of title to the nominee or straw party shall be exempt from this tax.
- (d) *Expenditure of funds.* The rate of tax imposed by this article, and other provisions or language to the contrary notwithstanding, shall be 1½ percent of the property value represented by such documents as referred to herein and funds realized pursuant to this article shall be segregated from the general fund and be expended solely for capital and operating costs of public safety services and for other programs and services, all in accordance with the provisions of 22 Del. C. § 1601(c).

(Code 1981, § 19.5-20; Ord. of 6-27-1988; Ord. of 8-10-1998)

Section 102-74. Payment generally; documentary stamps generally.

- (a) *Evidence of payment.* The payment of the tax imposed by this article shall be evidenced by the affixing of one or more documentary stamps to every document by the person making, executing, issuing or delivering such document, regardless of the situs of the actual making, executing, issuing or delivering of such document.
- (b) *Affixing stamps.* Such stamps shall be affixed in such a manner that their removal will require the continued application of steam or water, and the person using or affixing such stamps shall cause such stamps to be canceled in such a manner that they may not be used again either:
 - (1) By writing or stamping, or by causing to be written or stamped thereon, the initials of his name and the date upon which such stamps are affixed or used; or
 - (2) By complying with such other method of cancellation as the city assessor, city manager or his/her designee, or contractor may prescribe.
- (c) *Source of tax.* The tax imposed by this article shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale, and of the writ upon which the sale is made, and the sheriff or other officer conducting such sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith, unless previously paid by any party; provided, however, that any tax imposed by the state shall have priority over the tax imposed under this article.
- (d) *Determination of tax.* The value for determining the tax shall be the highest of the following:
 - (1) The bid price;

- (2) The amount of the mortgage not in excess of the fair value of the real estate;
- (3) The estimated full value;
- (4) The full and complete value pursuant to section 102-71.

(Code 1981, § 19.5-21; Ord. of 6-27-1988)

Section 102-75. Liability for payment as between parties.

As between the parties to any transaction which is subject to the real estate transfer tax imposed by this article, in the absence of an agreement to the contrary, the burden for paying such tax shall be on the grantor.

(Code 1981, § 19.5-22; Ord. of 6-27-1988)

Section 102-76. Recordation of documents.

- (a) No document shall be recorded in the office of the recorder of deeds in and for the county unless one or more documentary stamps shall have been affixed thereto as provided in this article.
- (b) The affixation of stamps to a document upon which a tax is imposed by this article, when lodged with or presented to the recorder of deeds, shall be an affirmation on the part of the transferor that the true, full, and complete value of the transaction is fully reflected in the amount of the stamps affixed thereto.
- (c) Every document, when lodged with or presented to the recorder of deeds and city assessor, city manager or his/her designee, or contractor, shall set forth therein, and as a part of such document, the true, full, and complete value thereof, or shall be accompanied by an affidavit, executed by a responsible person connected with the transaction, showing such connection and setting forth the true, full, and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

(Code 1981, § 19.5-23; Ord. of 6-27-1988)

Section 102-77. Duties of city assessor.

In addition to the other duties of the city assessor:

- (1) *Stamps.* The city assessor, city manager or his/her designee, or contractor shall prepare and furnish adhesive stamps of such denominations and in such quantities as may be necessary for the payment of the tax imposed by this article and shall make provisions for the sale of such stamps in such places as may be deemed necessary and indicate on the document the amount of transfer tax that has been paid.
- (2) *Other evidence of payment.* The city assessor, city manager or his/her designee, or

contractor may, by regulations, provide for the evidence of the payment of the tax to be shown on the document by means other than the affixing of documentary stamps.

- (3) *Regulations.* The city assessor, city manager or his/her designee, or contractor is charged with the enforcement of this article and is authorized and empowered to prescribe, adopt, promulgate, and enforce regulations relating to:
 - a. The method to be used in affixing or cancelling of stamps in substitution for or in addition to the method and means provided in this article.
 - b. The denomination and sale of stamps.
 - d. Any other matter or thing pertaining to the administration and enforcement of this article.
- (4) *Audit.* The city assessor, city manager or his/her designee, or contractor is charged with review of the payment and the "value" stated for the purpose of the tax.
 - a. The review and audit process should be conducted within ten days of the "stamping" of the deed.
 - b. Notification to attorney/title company shall be made within five business days of the findings from the review and audit process.

(Code 1981, § 19.5-24; Ord. of 6-27-1988; Ord. No. 2009-05, 7-27-2009)

Section 102-78. Prohibited acts enumerated.

No person shall:

- (1) *Pay tax.* Make, execute, issue, deliver or accept, or cause to be made, executed, issued, delivered or accepted, any document without the full amount of tax due thereon under the provisions of this article being duly paid;
- (2) *Cancel stamp.* Make use of any documentary stamp to denote payment of any tax imposed by this article without cancelling such stamp as provided in section 102-74(b);
- (3) *Comply with regulations.* Fail, neglect or refuse to comply with, or otherwise violate, the regulations prescribed, adopted, and promulgated by the department [sic] under the provisions of this article;
- (4) *Cut stamp.* Fraudulently cut, tear or remove any documentary stamp from a document;
- (5) *Fraud.* Fraudulently affix to any document upon which a tax is imposed by this article any documentary stamp which has been cut, torn or removed from any other document upon which a tax is imposed by this article or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp,

die, plate or other article;

- (6) *Alter cancellation.* Willfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp with the intent to use or to cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale or give away any such altered or restored stamp to any person for use, or knowingly use the same;
- (7) *Possess altered stamp.* Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which a tax is imposed by this article and the possession of such stamp shall be prima facie evidence of an intent to violate this subsection;
- (8) *Forged stamp.* Knowingly or willfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamp; or
- (9) *Accept unstamped document.* Accept for recording in the office of any recorder of deeds any document upon which the realty transfer tax is imposed by this article without the proper documentary stamp or other evidence of payment of the tax affixed thereto as required by this article as is indicated in such document or accompanying affidavit.

(Code 1981, § 19.5-25; Ord. of 6-27-1988)

Section 102-79. Violations; penalties.

Any person guilty of conduct prohibited in section 102-78 shall, upon conviction, be punished by imposition of a fine as provided for in Appendix F—Fees and Fines. Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.

(Code 1981, § 19.5-26; Ord. of 6-27-1988; Ord. of 9-22-2003; Ord. No. 2009-09, 6-22-2009)

Section 102-80—102-110. Reserved.

BE IT FURTHER ORDAINED:

That Chapter 102 – Taxation, Article IV – Abatement of Real Estate Taxes of the Dover Code, be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikethrough as follows:

Section 102-111. Purpose.

In the opinion of city council, the abatement of city real estate taxes for certain qualifying industries and businesses defined herein best promotes the public welfare by providing incentives for them to expand or locate in the city, thereby creating new employment opportunities for the citizens of the city and ultimately strengthening the city's tax base.

In the opinion of council of the City of Dover, the abatement of city real estate taxes for certain qualifying homeowners in certain designated areas of the city thus promotes the public welfare by providing incentives for these homeowners to purchase residences and locate in these areas in the city.

(Code 1981, § 19.5-31; Ord. of 12-11-2000; Ord. of 8-8-2005(2); Ord. No. 2014-01, 2-10-2014)

Section 102-112. Authority.

Article VIII, section 1 of the constitution of the state provides that real property located within the boundaries of any incorporated municipality may be exempted from municipal property tax by the municipality when, in the opinion of the municipality, it will best promote the public welfare.

(Code 1981, § 19.5-32; Ord. of 12-11-2000)

Section 102-113. Qualifications.

(a) *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:

Control with respect to a corporation means ownership, directly or indirectly, of stock possessing 50 percent or more of the total combined voting power of all classes of the stock of such corporation entitled to vote and 50 percent or more of the shares of such corporation entitled to vote and 50 percent or more of the total number of shares of all other classes of such corporation's stock.

Control with respect to a trust means ownership, directly or indirectly, of 50 percent or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association, or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) of the Internal Revenue Code (26 USC 267(c)).

Expanded facility means any qualified property that is modified with an improvement or addition (other than a replacement resulting from the acquisition, construction, reconstruction, installation, or erection of improvements or additions resulting from repairing, refurbishing, retooling, recycling, or other similar process or procedure that merely preserves or restores the value of an existing facility and not including any improvement or addition that, in the determination of the council, does not constitute an integral part of a qualified activity), if such improvements or additions are placed in service by the taxpayer after January 1, 2001. Abatement will only be to the extent of the taxpayer's qualified investment in such improvements or additions.

Large vacant commercial facility means a building of 20,000 square feet or larger and vacant continuously for 18 months or more.

New facility means any qualified facility (other than an expanded facility or a replacement facility) constructed by the taxpayer after January 1, 2001. For the purposes of this article, the term "constructed" means the issuance of a building permit for \$1,000,000.00 or more with regards to subsection (b)(1) of this section, and the issuance of a building permit for \$3,000,000.00 or more with regards to subsection (b)(2) of this section.

Placed in service and original use have the meanings ascribed to such terms under section 167 of

the Internal Revenue Code (26 USC 167) and regulations promulgated thereunder.

Qualified activity means any activity constituting manufacturing (other than any repair, refurbishing, retooling, recycling or other similar process or procedure that merely preserves or restores the value of a product or that does not change the inherent nature of a product or material). Such term includes any activity engaging in business as a wholesaler; the CCBA and any subsequent legislation as enacted by the state; any home offices and operating units of insurance companies; and any combination of activities described herein.

Qualified employee means any person employed within the city/county on a regular and full-time basis.

Qualified facility means any qualified property located in the city that constitutes a new or an expanded facility, located within the industrial park manufacturing district, industrial park manufacturing 2 district, industrial park manufacturing 3 district, or manufacturing district, and that is used by a taxpayer in or in connection with a qualified activity.

Qualified investment for any taxable year is based on the value of a qualified facility as of the last business day of such taxable year.

Qualified property means any building and its structural components, and any other improvement to real property. Such term includes the land on which such building or other improvements are located, if ownership of said land and structural improvements is identical. If any property is owned or leased by the taxpayer in common with any other person or persons, such property may constitute "qualified property" only to the extent of the taxpayer's proportionate interest.

Related person means a corporation, partnership, association, or trust controlled by the taxpayer; or an individual, corporation, partnership, association, or trust that is in control of the taxpayer; or a corporation, partnership, association, or trust controlled by an individual, corporation, partnership, association, or trust that is in control of the taxpayer.

(b) *Established.* Industries/businesses may qualify for property tax abatement either by meeting the industry function qualifications detailed in the following subsection (b)(1) or the investment qualifications detailed in the following subsection (b)(2) or the occupancy qualifications detailed in the following subsection (b)(3):

(1) *Qualifying industries/businesses by function.*

- a. Manufacturers and financial institutions as defined by the FCDA, CCBA, and subsequent legislation and home offices and operating units of insurance companies shall be qualifying industries, including, but not be limited to, distributors, transportation (air, rail, barge, truck), printing and publishing, and food processing.
- b. *Investment and employees.* The qualifying industry must invest at least \$1,000,000.00 in a qualifying new or expanded facility in the city and hire at least 20 qualified employees (including owners/operators), 75 percent of whom shall be city/county residents not employed by the qualifying industry/activity at the time

of its relocation/expansion within the city. The council may, at the time of application, reduce the 75 percent requirement to a lesser percentage, but not less than 50 percent. The qualifying industry agrees to supply information verifying compliance with this section in whatever legally acceptable manner the council shall so request.

- (2) *Qualifying industry/businesses by investment.* Industries/businesses that do not meet the qualifications as specified in subsection (b)(1) of this section can nevertheless qualify for property tax abatement by investing a minimum of \$3,000,000.00 in a new or expanded facility in the city located within the industrial park manufacturing district, industrial park manufacturing 2 district, industrial park manufacturing 3 district, or the manufacturing district, and hire at least 15 qualified employees (including owners/operators), 75 percent of whom shall be city/county residents not employed by the qualifying industry/activity at the time of its relocation/expansion within the city. The council may, at the time of application, reduce the 75 percent requirement to a lesser percentage, but not to less than 50 percent. The qualifying industry agrees to supply information verifying compliance with this section in whatever legally acceptable manner the council shall so request.

- (3) *Qualifying industry/business by occupying a large vacant commercial facility.* Entities that do not qualify for property tax abatement under subsection (b)(1) or (b)(2) can qualify for property tax abatement by (a) purchasing a large vacant commercial facility if the purchase of the large vacant commercial facility will result in the employment of 15 or more full-time employees; or (b) leasing a large vacant commercial facility if the initial lease term is at least ten years, the lease of the large vacant commercial facility will result in the employment of 15 or more full-time employees, and the occupying tenant submits a letter of intent to lease and requests the abatement for either their own benefit when the tax burden is the responsibility of the tenant, or on behalf of the owner when the tax burden is the responsibility of the owner. The demolition of a large vacant building and the construction of a new replacement 20,000 square feet or greater that meets the conditions of [subsection] (b)(3) of section 102-113, Qualifications, shall qualify for abatement.

(c) *Benefits.*

- (1) The council may abate city real estate taxes on a ten-year sliding scale as follows, or upon any other scale or method deemed most advantageous by the council for the public welfare:

Fiscal Year Construction Ended	100 percent reduction of taxes
First year of operation	90 percent reduction of taxes
Second year of operation	80 percent reduction of taxes
Third year of operation	70 percent reduction of taxes
Fourth year of operation	60 percent reduction of taxes
Fifth year of operation	50 percent reduction of taxes
Sixth year of operation	40 percent reduction of taxes
Seventh year of operation	30 percent reduction of taxes
Eighth year of operation	20 percent reduction of taxes
Ninth year of operation	10 percent reduction of taxes

Tenth year of operation	0 percent reduction of taxes
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- (2) Unless otherwise directed by the council, year one of the abatement period will commence with the first property tax billing following the completion of the qualifying new or expanded facility and the meeting of all requirements as detailed in subsections (b)(1) and (b)(2) of this section. Abatement for expanded facilities will be limited to expansion value only.
 - (3) All quarterly property taxes for new construction, as defined in section 49A of the city Charter, will likewise be abated for qualifying new or expanded facilities.
 - (4) The property tax abatement program will have no effect on both citywide revaluations of property values for taxation purposes and the institution of those new values.
- (d) Any persons purchasing residential real property in which they will reside within the downtown redevelopment high priority target area defined in Appendix C shall be given tax relief from the payment of real estate taxes in the following manner: first year of ownership, total tax abatement; second year of ownership, 75 percent tax abatement; third year of ownership, 50 percent tax abatement; fourth year of ownership, 25 percent tax abatement; fifth year of ownership, no tax abatement. Provided however that the homeowner is required to occupy the home as their principal place of residence during the entire time that the taxes are abated and if the property ceases to be their principal place of residence at any time during the four-year period of abatement, then they shall lose their right of abatement and shall be required to pay immediately all taxes abated up to the time that the home ceases to be their principal residence. In order to obtain the tax abatement, the homeowner must make application by affidavit submitted to the city assessor, city manager or his/her designee, or contractor showing qualification for the abatement and each year thereafter, submit a similar affidavit showing their continued right to the abatement. If qualification for the abatement ceases within the four-year period of abatement the homeowner is required to notify the city assessor, city manager or his/her designee, or contractor of the lack of qualification for the abatement and within 90 days from the date the qualification ceases, pay all taxes abated in the past.

First year of owner occupancy	100 percent reduction of taxes
Second year of owner occupancy	75 percent reduction of taxes
Third year of owner occupancy	50 percent reduction of taxes
Fourth year of owner occupancy	25 percent reduction of taxes
Fifth year of owner occupancy	0 percent reduction of taxes

(Code 1981, § 19.5-33; Ord. of 12-11-2000; Ord. of 8-8-2005(3); Ord. No. 2011-11, 7-11-2011; Ord. No. 2011-17, 8-8-2011; Ord. No. 2015-03, 2-23-2015; Ord. No. 2019-20, 1-13-2020; Ord. No. 2021-06, 4-12-2021)

Section 102-114. Application process.

- (a) *Letter.* An initial application for abatement shall be by letter sent to the city assessor, city manager

or his/her designee, or contractor by the taxpayer, specifying the exact provisions under which the applicant qualifies (i.e., type of industry, financial investment, level of city/county resident staffing, level of ownership and control, etc.).

- (b) *Time of application.* Applications may be made at any time prior to the issuance of a certificate of occupancy for the subject property. Applications for tax abatement received after the certificate of occupancy for a subject property has been issued will be rejected.
- (c) *Notice.* The city assessor, city manager or his/her designee, or contractor shall notify the applicant within 30 days if the project would meet all conditions for approval.
- (d) *To council.* After a certificate of occupancy is issued for the subject property, the city assessor, city manager or his/her designee, or contractor shall determine if all qualifications for a tax abatement have been met. When so satisfied, the city assessor, city manager or his/her designee, or contractor shall present the abatement request, with all qualifying documentation, to the city council for approval.
- (e) *Extension.* When the applicant cannot meet all qualifications for tax abatement at the time the certificate of occupancy is issued, an automatic 24-month approval extension shall be activated. If qualifications remain unfulfilled at the expiration of the approval extension, the abatement application will be denied by the city assessor, city manager or his/her designee, or contractor.
- (f) *Statement of compliance.* The council shall require an annual statement of compliance as a condition to remain eligible for the abatement program. The statement, due by April 15 of each year, shall be used to ensure continued fulfillment of all abatement qualifications. Failure to submit a requested statement of compliance shall disqualify any participation in the abatement program for the property tax billing following the missed April 15 deadline. The reduction of taxes percentage for the disqualified billing year will be extinguished as unused, with the next lower percentage becoming available for the following tax year.

(Code 1981, § 19.5-34; Ord. of 12-11-2000)

Section 102-115. Termination of ownership.

If, prior to the expiration of the ten-year abatement period, the qualifying facility is sold to a non-associated outside party, the council has the option to both cancel all remaining years of the abatement program for the facility, and/or require the selling party to reimburse the city for all tax abatement amounts allowed. The acceptance of any tax rebates under this article constitutes acceptance of this reimbursement provisions.

(Code 1981, § 19.5-35; Ord. of 12-11-2000)

Section 102-116. Affordable apartment housing complexes.

- (a) A multifamily apartment complex which meets all of the following criteria shall be entitled to a five-year phase-in of real property taxes:

- (1) It must consist of no less than 30 units.
- (2) It must be required by a deed restriction or other legal document to lease not less than 80 percent of the residential units located therein to persons whose annual income is 60 percent or less of area median income adjusted by household size as defined by the Federal Department of Housing and Urban Development (HUD) for Kent County, Delaware.
- (3) It must have been approved by the Delaware State Housing Authority (DSHA) for financing of new construction, or DSHA-defined substantial rehabilitation of existing housing; and, acquisition if DSHA-defined substantial rehabilitation is being done.

(b) The phase-in of real property taxes shall be in accordance with the following table:

Year of Operation	Reduction of Taxes (Percent)
1	100
2	75
3	50
4	25
5	0

- (c) Unless otherwise directed by the council, year one of the abatement period begins in the tax year after the completion of the new construction or rehabilitation of existing housing.
- (d) All quarterly property taxes for new construction, as defined in section 49A of the City Charter, will likewise be abated for apartment complexes that meet the aforementioned criteria..
- (e) This property tax abatement program will have no effect on both citywide revaluations of property values for taxation purposes and the institution of those new values.
- (f) Any person who purchases a property for which an application for the abatement was made, or for which the abatement was approved, will have the rights and benefits of the application or approved abatement.
- (g) The approval of all abatements under this program shall be by the city assessor, city manager or his/her designee, or contractor. Notice of action taken in determining entitlement to the abatement shall be given to the property owner. The property owner shall have rights of appeal as outlined in section 47 of the Dover City Charter.

(Ord. of 7-10-2006)

Section 102-117. Construction of new facility.

- (a) *Tax abatement benefit.* During the construction of a new facility or an expanded facility, meaning after the issuance of a building permit and prior to the issuance of a certificate of occupancy, improvements less than 100 percent complete by January 1 shall be eligible for an abatement of city real estate taxes.

(b) *Application; eligibility.*

- (1) Separate application under this subsection shall be submitted to the tax office pursuant to the requirements of subsection 102-114(a) no later than 30 days after notice of eligibility is issued.
- (2) Applicants must certify that they are in good standing pursuant to section 1-13 of the City Code. All construction must be active at the time of application.

(c) *Limitation on applicability.*

- (1) Abatement under this subsection may not exceed a period of 12 months.
- (2) Notwithstanding other provisions of this subsection, the abatement period may, at the discretion of the assessor, city manager or his/her designee, or contractor, be extended for a period not to exceed an additional 12 months for good cause shown. Good cause includes, but is not limited to, increase in the scope of the project, acts of nature, and, as long as no party with control of the new facility is at fault, fire or vandalism. Abandonment of a project shall not be considered good cause.

(d) *Right to appeal.* Any aggrieved taxpayer shall have the right to appeal the decision of the assessor, city manager or his/her designee, or contractor to the city council. Appeals must be filed with the council not more than ten days after the date the written decision of the assessor is issued.

(Ord. No. 2011-02, 2-14-2011)

Section 102-118. Revocation of eligibility.

The beneficiary of the incentives provided by this article must remain current on all obligations due the city. If, at any time after the incentives have been granted, the beneficiary of the incentives becomes delinquent on any of the obligations listed in section 1-13(b), the city manager shall revoke the eligibility for any portion of the incentives not yet received by the beneficiary. Notice shall be given to such beneficiary in writing.

For the purposes of this section, the beneficiary of the incentives shall include the person or artificial entity that receives the incentive and the owner of one-half or greater interest in an artificial entity that receives the incentive.

(Ord. No. 2014-01, 2-10-2014)

Section. 102-119—102-150. Reserved.

BE IT FURTHER ORDAINED:

That Chapter 102 – Taxation, Article V – Tax Credits for Historical Properties 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:

Section 102-151. Voluntary tax credits for preservation, restoration, and/or rehabilitation.

Owners of historic properties located in the city historic district zone, as shown on the city zoning map, or properties listed on the National Register of Historic Places may be entitled to tax credits for preservation, restoration, and/or rehabilitation of the exterior architectural facades of their buildings, subject to the following special procedures and requirements:

- (1) *Applicability.* Tax credits shall be applicable only for preservation, rehabilitation, and/or restoration of exterior architectural improvements which are not covered by insurance claims due to recent damage of the property.
- (2) *Amount.* Tax credits shall be provided at 50 percent of the total cost of the approved preservation, restoration, and/or rehabilitation, up to a maximum credit of \$6,000.00 (with a total project cost minimum of \$12,000.00). The cost of the project must be at least \$1,200.00, resulting in a minimum tax credit for the project of \$600.00.
- (3) *Run with property.* Tax credits shall run with the property for a ten-year period. However, the credit shall not transfer to any new owners of the property.
- (4) *Prorated.* Tax credits shall be prorated over the ten-year period. For example, a \$6,000.00 credit shall be applied in \$600.00 increments each year toward a property owner's city real estate tax. If the credit is less than the annual tax due on a property, the owner shall pay the difference to the city through the real estate billing process. If the credit is more than the annual tax due on a property, the owner's credit shall be deemed to be equivalent to the annual tax due.
- (5) *Total credit.* The owners of a property may apply more than once for tax credits; however, the total credit shall not exceed \$600.00 per year in any given year, and a property may not receive a total abatement greater than \$12,000.00.

(Code 1981, § 19.5-40; Ord. of 1-12-1998; Ord. of 1-10-2000)

Sec. 102-152. Application requirements.

- (a) *Submissions to city planner.* Property owners shall submit a historic tax credit application, and, when applicable, a building permit application and/or application for architectural review certificate as required by Appendix B - Zoning, Article 10 - Planning Commission, Section 3 - Historic District Commission and Architectural Review.
- (b) *Plans.* A tax credit request submittal shall include the type and number of plans and specifications required for a building permit and, in addition, elevation plans and specifications, showing the impact of the proposed work on the exterior architectural facade of the building.
- (c) *Photographs.* A tax credit application submittal shall include current color photographs of the property, showing the present condition of the property, and accurately representing the existing materials and texture. All photographs shall be labeled indicating the direction of view.

- (d) *Other information.* Other information may be required by the city planner to facilitate review of such tax credit submittal.
- (e) *Cost estimate.* An itemized cost estimate shall be submitted, which shall be the basis for the tax credit.

(Code 1981, § 19.5-41; Ord. of 1-12-1998; Ord. No. 2015-03, 2-23-2015)

Section 102-153. Application review and approval.

- (a) *Factors considered.* The city planner shall first review the submitted applications, plans, photos, and related information to determine if the property is a qualifying historic property. In making this determination, the city planner shall consider the following:
 - (1) The property's significant value as part of the historical, cultural, artistic, social, ethnic or other heritage of the nation, state or city;
 - (2) The property's association with an important person or event in national, state, or local history;
 - (3) Whether the property is representative of the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of an indigenous material;
 - (4) Whether the property is the notable work of a master builder, designer, architect, or artist whose individual genius has influenced an era.
- (b) *Review.* If the city planner determines that the property is a qualifying property, they shall review the submitted application plans, specifications, and related information for compliance with the following:
 - (1) The proposed application constitutes an exterior preservation project seen readily from a street, sidewalk, or public way, where measures are applied to sustain the existing form, integrity, and material of the building or structure, including stabilization work, where necessary, as part of ordinary maintenance and repair;
 - (2) The proposed application constitutes an exterior rehabilitation project readily seen from a street, sidewalk or public way, which would return the property to a state of utility through repair or alteration which makes possible an efficient use of the building, while preserving those portions or features of the property which are central to its historic, architectural, and cultural significance;
 - (3) The proposed application constitutes an exterior restoration project readily seen from a street, sidewalk, or public way, which accurately recovers the form and detail of a property and its setting as it appeared at a particular period of time in the past by means of removal of later work or by the replacement of missing earlier work; or

- (4) The proposed application conforms with the recommended practices and treatments of the design standards and guidelines for the city historic district. Practices and treatments designated as not recommended or inappropriate in the guidelines, or determined by the historic district commission to be inappropriate shall not qualify for this tax credit.
- (c) *Referral to historic district commission.* The city planner may refer any application for tax credits under this article to the historic district commission for consultation with the commission. The applicant shall have the right to appeal a tax credit disapproval to city council.
- (d) *Expense report.* Upon the completion of the qualified work for which a tax credit has been approved, the property owner or his contractor shall submit to the city planner a written expense report, which verifies the costs associated with the project and shall request an inspection of the completed work by the city planner.
- (e) *Tax credits.* The tax assessor, city manager or his/her designee, or contractor shall apply approved tax credits during the fiscal year subsequent to the submittal to the city planner by the applicant of the contractor's final invoice to verify the cost of the repairs to the building and following certification from the city planner that the work has been completed in accordance with the approval of the tax credit application, building permit, and/or architectural review certificate.

(Code 1981, § 19.5-42; Ord. of 1-12-1998; Ord. No. 2015-03, 2-23-2015)

Section 102-154—102-180. Reserved.

BE IT FURTHER ORDAINED:

That Chapter 102 – Taxation, Article VI – Exemptions; Board of Assessment Appeals of the Dover Code be amended by inserting the text indicated in bold, blue font and deleting the text indicated in red strikethrough as follows:

Section 102-181. Board of assessment appeals.

There shall be a board of assessment appeals, which shall be designated by the city council, to be composed of not less than three civilian members, and such board shall hear appeals from any general property assessments. The members of the board shall serve four-year staggered terms. Members shall be qualified voters of the city and have experience in the state in one of the following fields:

- (1) Real estate brokerage of sales;
- (2) Property appraisal/assessments;
- (3) Real property law;
- (4) Accounting.

(Code 1981, § 19.5-50; Ord. of 3-12-2001; Ord. No. 2009-17, 11-9-2009)

Charter reference(s)—Board of revision and appeals, subpart A, § 47.

Section 102-182. Authority to exempt real property from taxation.

The city council shall have the power to exempt real property located within the city from municipal property taxes when, in the opinion of the board, the same will best promote the public welfare. The city assessor, city manager or his/her designee, or contractor shall be empowered to grant tax exemptions to senior citizens where the requested income verification is completed and meets the requirements of section 102-183. Pursuant to Del. C. title 9, §§ 8105 and 8110, the city assessor, city manager or his/her designee, or contractor shall be empowered to grant tax exemptions to property owned by governmental, religious, educational, charitable agency or civic associations owning parkland, upon receipt of an application filed by the organization establishing its entitlement to such exemptions. The city assessor, city manager or his/her designee, or contractor shall be empowered to grant tax exemption to and waive delinquent taxes on real property which has been required by the City of Dover to be set aside for public parkland or open space once the subdivision/phase of subdivision has reached 80 percent completion and/or street dedication, whichever occurs first, in concurrence with the city manager. Any outstanding penalty or interest incurred as a result of unpaid taxes on said property shall be forgiven.

(Code 1981, § 19.5-51; Ord. of 3-12-2001; Ord. No. 2009-17, 11-9-2009; Ord. No. 2016-11, 3-28-2016)

Charter reference(s)—Tax exemptions, subpart B, § 3.

State law reference(s)—Tax exemptions, Del. Const. art. VIII, § 1.

Section 102-183. Tax exemption for senior citizens.

- (a) *Authority.* This section is adopted to implement 22 Del. C. § 1001 et seq., granting exemptions from municipal taxation on real property for persons 65 years of age or over. Compliance must be made with such chapter 10 and this section in order to qualify for such exemption.
- (b) *Qualifications.* The exemption shall be for real property owners 60 years of age or over. If qualified, their real property shall be exempt from municipal taxation to the extent of the first \$50,000.00 of assessed valuation. This exemption shall be subject to the following:
 - (1) *Owner resides alone.* If the income of a property owner who resides alone exceeds the sum of \$15,851.00 (2008) for the income tax year immediately preceding the date of making an application for the exemption, then the exemption shall not be granted. The maximum income limit stated in the preceding sentence shall increase each year by the same percentage as the cost of living adjustment granted to recipients of Social Security retirement benefits.
 - (2) *Spouses reside together.* If the income of a property owner and spouse who reside together exceeds the sum of \$22,192.00 (2008) for the income tax year immediately preceding the date of making an application for the exemption, then the exemption shall not be granted. The maximum income limit stated in the preceding sentence shall increase each year by the same percentage as the cost of living adjustment granted to recipients of Social Security

retirement benefits.

- (3) *Exclusion from income.* In computing income of the property owner in order to determine entitlement for the deduction, Civil Service Retirement System (CSRS) benefits up to 150 percent of the Social Security maximum benefit, Social Security benefits and railroad pensions shall not be considered as income.
- (4) *Location, use of property.* The real property must be located within the limits of the city and must be used exclusively for residential purposes.
- (5) *Residence.* The real property must be the legal residence of, and be occupied in whole or in part by, the property owner.
- (6) *Owner of record.* The property owner must be the owner of record of said real property as of December 31 of the calendar year immediately preceding the date of making application for the exemption.
- (7) *Time when age attained.* The property owner must have attained the age of 60 years by March 1 of the year in which the exemption application is filed.
- (8) *Filing applications.* Applications for exemption shall be filed in accordance with regulations adopted by the city council and for cause shown. The city assessor, city manager or his/her designee, or contractor may accept and act upon applications received after any established application filing date.
- (9) *Refund.* The city assessor, city manager or his/her designee, or contractor is empowered to refund taxes paid by a qualified applicant who is entitled to an exemption and successfully files for the same.
- (10) *Evidence.* The tax office shall be authorized to require any applicant to submit evidence substantiating income reported for receipt of the exemption. The city assessor, city manager or his/her designee, or contractor may deny applications where requested income verification is not submitted by the applicant.
- (11) *Denial; appeals.* Denial of exemptions by the city assessor, city manager or his/her designee, or contractor and any other complaints regarding the exemption process may be appealed by the taxpayer directly to the board of assessment appeals. The board of assessment appeals shall have the power to affirm, overrule or remand the decision of the city assessor, city manager or his/her designee, or contractor.
- (12) *Interest; retroactive exemptions.* Qualified senior citizens who fail to exercise their property tax exemption shall not be entitled to any interest payments on said exemption amount; nor shall unexercised property tax exemptions be retroactive beyond the current tax year.
- (13) *Penalties.* Penalties assessed to delinquent property tax accounts that are eligible for a senior citizen exemption that has not been exercised shall not be excused.

- (14) *Council review.* City council will review these numbers at the conclusion of each reassessment.

(Code 1981, § 19.5-52; Ord. of 3-12-2001; Ord. of 5-23-2005; Ord. of 4-28-2008(1); Ord. NO. 2010-06, 3-22-2010; Ord. No. 2012, 3-12-2012)

Charter reference(s)—Tax exemptions, subpart B, § 3.

State law reference(s)—Tax exemptions, Del. Const. art. VIII, § 1.

Section 102-184. Tax exemption for disabled citizens.

Individuals who are determined to be disabled under the law applicable to the Social Security Administration are qualified to apply for the property tax exemption.

(Ord. of 4-28-2008(1))

Section 102-185. Appeals.

- (1) Appeal date deadlines (unless otherwise stated on official documentation):

Appeal filing deadline (annual appeals) April 30

Appeal filing deadline (October ³/₄ supplemental bills) October 30

Appeal filing deadline (January ¹/₂ supplemental bills) January 30

Appeal filing deadline (April ¹/₄ supplemental bills) April 30

If a USPAP summary appraisal report is deemed required, an additional 30-day extension from the original deadline date will be granted in accordance with the city assessment appeal policy.

- (2) Right to appeal is lost if appellant has missed the designated appeal date. The appellant may appeal the following April for the next billing cycle.
- (3) Appeals/refunds for errors or opinions of value from appellants will not be heard for prior years.
- (4) The assessment as revised and adjusted by the board of assessment appeals shall be the listed value for the year under appeal and shall be the basis for the levy and collection of taxes for the city.

(Ord. No. 2009-05, 7-27-2009; Ord. No. 2009-17, 11-9-2009)

Section 102-186—102-189. Reserved.

BE IT FURTHER ORDAINED:

That Chapter 102 – Taxation, Article V II – Lodging Tax 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:

Section 102-190. Local lodging tax.

- (a) A local lodging tax is hereby levied of up to three percent of the cost of the rent, in addition to the amount imposed by the state and the county, for any room or rooms in a hotel, motel or tourist home, as defined in 30 Del. C. §6101, within the boundaries of the city. The tax will be implemented beginning July 1, 2020 at the rate of one-half of one percent for 2020; one percent for 2021; and one and one-half percent for subsequent years.
- (b) The local lodging tax, pursuant to this article, is the responsibility of the occupant of the room and shall be collected at the time the rental is paid. Operators of the hotel, motel or tourist home are responsible for the collection of the local lodging tax and the remittance of the taxes to the city within 20 days after the end of each calendar month, in accordance with procedures established by the city manager and using forms designated by the city finance department. The tax imposed shall be shown on the billing to the occupant as a separate and distinct item.
- (c) Lodging tax receipts will be accounted for in a committed fund balance account to be used only for infrastructure.
- (d) No local lodging tax pursuant to this article shall be collected for reservations or contracts for lodging executed or completed before July 1, 2020.

(Ord. No. 2019-16 , 9-23-2019)

C. Plat.

- 1. The plat shall conform substantially to the preliminary layout approved by the commission and, if desired by the subdivider, it may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time, provided that said portion conforms to all requirements of these regulations.
- 2. The plat and other documents as specified in article V shall be prepared by the subdivider in accordance with the general requirements and design standards specified in article VI, and shall be submitted to the city planner subject to the following:
 - (a) Preliminary subdivision layout approval shall expire on the last day of the sixth month after the date of conditional approval of the planning commission if the preliminary plans have not been completed in accordance with all conditions of preliminary subdivision layout approval unless an extension of time is applied for by the applicant and granted by the planning commission.
 - (b) Application for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such application, the matter shall be considered at the next regularly scheduled meeting of the planning commission.
 - (c) In considering a request for an extension of approval the planning commission shall

consider, but not be limited to, the following:

- (1) Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.
 - (2) Whether the project is of a minor size and scale.
 - (3) Whether there has [have] been any significant changes in the surrounding neighborhood.
 - (4) Whether there has [have] been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.
- (d) Applications for extension shall be submitted to the city by completing an application for extension of approval form which may be obtained in city hall.
- (e) Under no circumstances shall the planning commission grant extensions beyond six months from the date of first approval.
3. Application for approval of the plat shall be submitted in writing by the subdivider to the city planner, together with three prints of the plat and the plat review fee as provided for in Appendix F—Fees and Fines.
 4. Within 45 days from the date of submission of the plat or within such additional time as may be consented to by the applicant, the city planner shall approve or disapprove said plat, and shall notify the subdivider in writing of the decision and state the conditions of approval if any, the required modifications if any, or the reasons for disapproval. Approval of the plat shall not become final until the provisions of paragraphs [subsections] 5. and 6. below have been complied with.
 5. When all improvements are completed to the satisfaction of the city manager and when the subdivider makes an application for dedication of streets and other public areas and easements, such application shall be accompanied by a maintenance bond in the amount of ten percent of the cost of all public improvements, upon the advice of the city manager, to be adequate to assure the satisfactory condition of the initial improvements for a period of at least one year following their completion and to remain valid until certificates of occupancy have been issued and/or property transfers have occurred for at least 75 percent of the lots within the subdivision. Such bond shall be satisfactory to the city solicitor with regard to form, sufficiency, manner of execution and surety.
 6. The approved plat shall be filed and recorded in the county recorder of deeds' office within 90 days from the date of final approval by the city planner; otherwise, said approval shall become null and void, unless an extension of time is applied for, and granted by the city planner within the said 90-day period.
 7. After filing the plat with the county recorder of deeds' office, the subdivider shall enter the county file number and date of filing on one reproducible transparency on stable base material and three block or blue line prints on white paper, and shall deliver them to the city planner, together with one print of the plat reduced to a scale of 400 feet to the inch and one to a minimum scale of 50

feet to the inch, if requested by the commission. The city planner shall deliver the reproducible transparency and one print to the city engineer and one print to the city tax office.

8. The subdivider shall secure the assessment lot and house numbers from the assessor, city manager or his/her designee, or contractor.
9. The subdivider shall follow one of the procedures set forth in paragraph [subsection] (a) or (b)[sic] below:
 - (a) Should the subdivider desire that a certificate of occupancy be issued prior to completion of all required improvements to the satisfaction of the city manager, the subdivider shall furnish the city manager with a completion guaranty in the amount of 150 percent of the cost of all uncompleted improvements and in a form satisfactory to the city manager. Said completion guaranty shall be in effect until such time as the dedication of all streets, easements and other public areas are accepted by the city council. To qualify for the acceptance of a 150-percent completion guaranty, the following conditions must be met:
 - (1) The streets cannot be completed due to limitations caused by weather.
 - (2) The following improvements have been completed to the satisfaction of the city manager:
 - a. Drainage structures and water and sewer mains are in place;
 - b. Integral curb and gutter is [are] in place;
 - c. Asphalt base course is in place;
 - d. Streetlights, street signs and traffic control signs are in place and operational.
 - (3) The subdivider has requested an inspection of the uncompleted improvements by the city manager. The contractor shall prepare an itemized cost estimate of the actual cost to complete the uncompleted work. The estimate shall include an item for contingencies in the amount of 50 percent of the estimated cost.
 - (4) The completion guaranty is to be indemnified by a three-party construction agreement between the contractor, the subdivider, and the city. This agreement will provide that the contractor shall complete the uncompleted improvements to the satisfaction of the city manager on demand of the subdivider or the city by a given date written in the agreement.

(Ord. of 7-12-2004(2); Ord. No. 2009-09, 6-22-2009)

ADOPTED: SEPTEMBER 27, 2021

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SYNOPSIS

This amendment adds the ability for Council to appoint the City Manager as the City Assessor. Per legal opinion, Council may appoint the City Manager to this post annually. In doing so, Council will be afforded the flexibility to use the County's assessment values in the future or to hire a staff assessor if Council chooses to do so. After the City Manager is appointed, he or she may then designate staff responsible for the day to day administration of duties related to the Tax Assessors Office.

(SPONSORS: BOGGERTY AND LINDELL)

Actions History:

09/27/2021 – Final Reading – City Council

09/13/2021 – First Reading – City Council

08/09/2021 – Introduced – Council Committee of the Whole