

1.0 ADMINISTRATION

Violations, Penalties, & Enforcement

1.4.3 CONTINUING VIOLATIONS

Each day that a violation continues constitutes a separate violation of these zoning regulations.

1.4.4 REMEDIES CUMULATIVE

The remedies and enforcement powers established in these zoning regulations are cumulative, and the city may exercise them in any combination or order. Penalties may be imposed for each and every individual violation of the zoning ordinance; for example, a property owner who has too many parking spaces or cars parked on the property may be issued a separate penalty for each additional parking space or car parked over the allowed number.

1.4.5 PERSONS SUBJECT TO PENALTIES

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person (including a user of public property in the OS district) who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies, and enforcement actions.

1.4.6 REMEDIES AND ENFORCEMENT POWERS

The city has all remedies and enforcement powers allowed by law, including, without limitation, all of the following:

A. Withhold Permit

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- (1) The zoning administrator is authorized to deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements upon which there is an uncorrected violation of a provision of these zoning regulations, or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for the violation in question.
 - (2) The zoning administrator may deny or withhold all permits, certificates or other forms of authorization on any land where an uncorrected violation exists. The zoning administrator may also withhold all permits, certificates, or other forms of authorization on any other land owned by the owner of land on which an uncorrected violation exists. This enforcement provision may

be used regardless of whether the property for which the permit or other approval is sought is the property in violation.

- (3) Instead of withholding or denying a permit or other authorization, the zoning administrator may grant such authorization subject to the condition that the violation be corrected.

B. Revoke Permits

- (1) A permit, certificate, or other form of authorization required under these zoning regulations may be revoked by the zoning administrator when the zoning administrator determines:
 - (a) That there are unapproved, significant departures from approved plans or permits;
 - (b) That the development permit was procured by false representation or was issued by mistake; or
 - (c) That any of the provisions of these zoning regulations, or any approval previously granted by the city, are being violated.
- (2) Written notice of revocation must be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued. If no persons can reasonably be served with notice, the notice must be posted in a prominent location.

C. Stop Work. With or without revoking permits, the zoning administrator may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of these zoning regulations, or of a permit or other form of authorization, issued under this or previous zoning regulations.

D. Injunctive Relief. The city may seek an injunction or other equitable relief in court to stop any violation of these zoning regulations or of a permit, certificate or other form of authorization granted under this or previous zoning regulations.

E. Forfeiture and Confiscation of Signs on Public Property. Any sign installed or placed on public property, except in compliance with the regulations of these zoning regulations will be considered forfeited to the public and subject to confiscation. In addition to other remedies and penalties of this chapter, the city has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

ORDINANCE NO. 1938

AN ORDINANCE TO ADOPT CHAPTER 116, ENFORCEMENT OF COUNTY OBLIGATIONS, TO REQUIRE RESIDENTS AND PROPERTY OWNERS TO BE CURRENT IN THE PAYMENT OF TAXES AND OTHER COUNTY OBLIGATIONS AS A CONDITION PRECEDENT TO MAKING APPLICATION FOR AND RECEIVING COUNTY APPROVALS, SERVICES AND/OR PERMITS.

WHEREAS, by the adoption of this Ordinance, the Sussex County Council establishes a "Clean Hands" Ordinance requiring property owners to be current in obligations owed to the County as a condition precedent to receiving County approvals.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

§116-1. Issuance of County approvals dependent on payment of taxes and other County obligations.

The Directors of County departments having authority to accept applications and issue approvals, permits, licenses and/or provide County services shall first determine that the applicant is current on and not in default of certain obligations owed to the County.

§116-2. County obligations which must be current.

Applicants for County approvals, permits, licenses and/or the use, receipt or provision of County services shall be current on all of the following obligations to the County prior to receiving such approvals:

- (1) Property taxes.
- (2) Capitation taxes.
- (3) Water and/or sewer connection, front footage and/or usage charges.
- (4) Application fees.
- (5) Permit fees, including building permits, building code and inspection fees.
- (6) Interest, penalties, court costs and/or attorney's fees if applicable to a default in any of the above listed obligations.

§116-3. Issuance of County approvals dependent upon payment of County obligations.

The directors or heads of various County departments and offices shall refuse to accept applications and grant permits and/or approvals for the use, receipt or provision of County services, including but not limited to, building permits, mobile home placement permits, building code plan reviews and/or inspections, subdivisions, rezonings, conditional uses, variances and/or special exceptions until the owner and/or applicant has demonstrated that all County obligations identified in Section 116-2 above have been paid current as to all lands and property owned by the individual requesting the permit, approval or County services. If the party requesting County approval is current on some, but not all obligations owed to the County, the approval, permit, license and/or County service being applied for shall be denied until such time as all County obligations are current and fully complied with.

Sussex County, DE

§116-4. Procedure.

A. All County employees who are responsible for taking applications and/or granting approvals and/or permits and/or providing the County services identified in Section 116-3 shall make all reasonable efforts to determine that none of the County obligations identified in Section 116-2 are unpaid and/or that the owner requesting the approval, permit or service is not in violation of any monetary or compliance obligation owed to Sussex County.

B. Parcel owners who have taxes or any other obligations owed to the County must have written approval from the Sussex County Finance Director indicating full payment of all taxes, assessments, fees or obligations that are in arrears before any application for a building permit, building code approval, subdivision, rezoning, conditional use, variance, special exception or County services can be accepted or approved by the Sussex County offices or employees.

C. If any non-complying or incomplete payments, actions or filings are determined to exist, then the administrative agency or official shall, in writing, deny the license, application or other form of approval requested until all existing requirements for payment, actions or filings have been fully complied with or completed, clearly identifying in the written denial, the payment, action or filing required to be completed or complied with. Failure by the appropriate administrative agency or official to issue such written denial within ten (10) working days from the receipt of an application shall enable the applicant to receive the permit or other approval for which application was made.

§116-5 Appeals.

Any applicant for a permit or other form of County approval who receives the aforesaid written denial of a permit or other form of approval by an administrative agency or official of Sussex County may appeal that denial to the Sussex County Administrator within 20 calendar days of such denial. The Administrator, or his designee, shall thereafter hold a hearing at which said applicant shall be permitted to provide proof that such payment has been made or that a required action or filing has been properly carried out or otherwise show that such denial is based on incorrect information or is not appropriate as to that applicant.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 1938 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16TH DAY OF OCTOBER 2007.



ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

Sec. 1-13. - Clean hands.

(a)

Eligibility to receive city utilities or services. No person, artificial entity, or owner of a ½ or greater interest in that artificial entity shall be eligible to receive any city services, utilities, permits, licenses, or approvals if that person, artificial entity, or owner of a one-half or greater interest in that artificial entity owes outstanding payments to the city; or if that person, artificial entity, or the owner of a ½ or greater interest in that artificial entity is responsible for documented violations of the Dover Code of Ordinances that have remained unresolved for more than 45 days. If the party, artificial entity, or owner of a ½ or greater interest in that artificial entity requesting city approval is current on some but not all obligations owed to the city, the request shall be denied until such time as the person, artificial entity, or owner of a one-half or greater interest in that artificial entity is current and in compliance with all city obligations.

(b)

Obligations which must be current. Applicants for city services, utilities, permits, licenses, or approvals shall be current on all of the following obligations to the city, including interest, penalties, court costs, and/or attorney's fees if applicable, prior to receiving such approvals:

(1)

Property taxes.

(2)

Applicable Delaware realty transfer taxes.

(3)

Water, sewer, and electric connection/disconnection, front footage and/or usage charges.

(4)

Trash fees.

(5)

Application fees.

(6)

Permit fees, including building permits, building code and inspection/reinspection fees.

(7)

Vacant building fees.

(8)

Inspection fees.

(9)

Charges for the costs of razing or demolition of buildings done through public expenditure.

(10)

Charges for duly authorized improvements or maintenance to the exteriors of buildings or property done through public expenditure.

Dover, DE

(11) Assessments for the installation of sewer lines, water mains, sidewalks, and curbing.

(12) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash, or other waste material done through public expenditure.

(13) Miscellaneous charges.

(c)

Appointment to committee, commission, or board. Prior to any person being appointed to a city committee, commission, or board, the city clerk will determine if there are outstanding payments due to the city in their name or the name of any artificial entity in which they own ½ or greater interest; or if they are responsible for outstanding, documented violations of the Dover Code of Ordinances that have been unresolved for more than 45 days. If it is determined that such delinquency or violation exists, this shall be reported to the council president and an executive session shall be scheduled to discuss the nature of the delinquency prior to appointment. If an appointed member of a city committee, commission, or board is determined to have such a delinquency or outstanding violation during their appointment, the city clerk shall report such delinquency or violation to the council president and an executive session shall be scheduled to discuss the violation or delinquency. City council may reject an appointment or remove an appointee from a city committee, commission, or board due to such delinquency or violation.

(d)

Responsibility of city personnel.

(1)

The administrative agency to which a request has been submitted shall have the responsibility to make a reasonable effort to determine whether there are outstanding payments or outstanding documented violations of the Dover Code of Ordinances.

(2)

The appropriate administrative agency shall notify an applicant that the request cannot be processed because of an outstanding payment or an outstanding documented violation. Said notice shall be in writing and shall be sent within ten working days of receipt of the request.

(e)

Exception. Notwithstanding the provisions of this section, the building inspector, with the concurrence of the city manager, may issue permits and approvals for work that is necessary to correct violations associated with Chapter 22, Buildings and Building Regulations, Article XI, Dangerous Buildings.

(f)

Appeal of denial of utilities, services or approvals.

(1)

Appeal to city manager. Any applicant, person, corporation, or other entity or any owner or member of that corporation or other entity requesting such city services, utilities, permits, licenses, or approvals who receives the aforesaid written denial may appeal that denial to the city manager within 20 calendar days of such denial. The city manager, or his/her designee, shall thereafter hold a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

(2)

Appeal to city council. An applicant aggrieved by the decision of the city manager regarding his/her appeal may appeal such decision to city council within 20 calendar days of such decision. City council shall schedule a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

(Code 1981, § 1-13; Ord. of 11-25-2002; Ord. No. 2012-10, 6-25-2012)